

INSTITUTE OF LEGAL EXECUTIVES

UNIT 11 – PLANNING LAW*

Time allowed: 3 hours plus 15 minutes reading time

Instructions to Candidates

- You have **FIFTEEN** minutes to read through this question paper before the start of the examination.
- **It is strongly recommended that you use the reading time to read the question paper fully.** However, you may make notes on the question paper or in your answer booklet during this time, if you wish.
- **All questions carry 25 marks. Answer FOUR only of the following EIGHT questions. The question paper is divided into TWO sections. You MUST answer at least ONE question from Section A and at least ONE question from Section B.**
- Write in full sentences – a yes or no answer will earn no marks.
- Candidates must comply with the ILEX Examination Regulations.
- Full reasoning must be shown in answers. Statutory authorities, decided cases and examples should be used where appropriate.

Information for Candidates

- The mark allocation for each question and part question is given and you are advised to take this into account in planning your work.
- Write in blue or black ink or ball point pen.
- Attention should be paid to clear, neat handwriting and tidy alterations.
- Complete all rough work in your answer booklet. Cross through any work you do not want marked.

Do not turn over this page until instructed by the Invigilator.

* This unit is a component of the following ILEX qualifications: **LEVEL 6 CERTIFICATE IN LAW, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 6 DIPLOMA IN LEGAL PRACTICE**

SECTION A
(Answer at least one question from this section)

1. Explain and analyse the historical development of the planning legislation from the commencement of the Town and Country Planning Act 1947 up to the present day, emphasising the key legislative changes that have taken place during that period.

(25 marks)

2. With reference to the provisions of the Town and Country Planning Act 1990 and any relevant regulations, explain the powers exercised by local planning authorities in respect of outdoor advertising.

(25 marks)

3. In relation to the submission of an application for planning permission, discuss the legal requirements in planning law with regard to:

(a) the documentation required to make a valid application;

(10 marks)

(b) notification of the making of the application to persons having an interest in the land to which the application relates and the rights, if any, conferred on those persons.

(7 marks)

(c) the duties imposed on a local planning authority following submission of an application for planning permission.

(8 marks)

(Total: 25 marks)

4. (a) With reference to provisions of the Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004, explain and analyse the legal significance of the development plan in the determination of an application for planning permission.

(10 marks)

(b) Explain what is meant by a "development plan document" (DPD) under the Planning and Compulsory Purchase Act 2004 and discuss the procedures for the making and adoption of such a document.

(15 marks)

(Total: 25 marks)

SECTION B

(Answer at least one question from this section)

Question 1

Tom is a retired railway company executive. He has recently purchased a substantial three-storey dwelling house with a plot of three hectares of land. The land has always been used as a private garden in connection with the house. Tom intends to reside in the house.

Tom proposes to place on the land an old railway carriage with wheels standing on a short section of railway track. The track will consist of rails attached to sleepers embedded in the ground. Over the years, Tom has collected railway memorabilia and he intends to use the carriage as a small museum to display his collection. The museum will be open to members of the public free of charge.

Tom wishes to convert the top floor of the house into a self-contained flat which he will lease to a tenant.

In order to provide extra living accommodation, Tom plans to build a two-storey extension at the rear of the house. It will extend beyond the back wall of the original dwellinghouse by three metres and be 50 metres from the rear boundary. The extension will incorporate a veranda at second storey level.

Tom is proposing to build a three-hole "pitch and putt" golf course on the land. This will involve creating tees, greens and bunkers. The course will be solely for use by Tom and by his family and friends.

Finally, Tom intends to use part of the garden for keeping a small number of chickens and to sell, from the garden, eggs to members of the public.

Advise Tom as to whether planning permission is required for each of his proposals.

(25 marks)

Turn over

Question 2

Chaucer Developments plc has recently acquired a site (the "application site") consisting of 50 hectares of land on the fringe of the built-up area of Nottingham. The application site fronts a busy highway, the Trentvale Road. The company has applied for planning permission for residential development.

Adjoining the application site there are some public gardens which belong to the local authority, the focal point of which is a Victorian property, Park House, which is used as a café and is in urgent need of repair. Also adjacent to the application site is a site currently in use as a "go-kart" racing track, which is run by a subsidiary company of Chaucer Developments plc.

Planning permission has been granted by the local planning authority subject to the following conditions:

- "(i) To safeguard the amenity of the proposed residential properties, the houses when built shall not be occupied until the go-kart racing use has been discontinued.
- (ii) To relieve traffic congestion on Trentvale Road, an access road shall be built across the frontage of the application site on land owned by Chaucer Developments plc and at the company's expense. When built, the road shall be dedicated as a public highway.
- (iii) To enhance the facilities available to residents of the houses, Park House must be restored and the public gardens maintained, at the developer's expense, in accordance with a scheme to be approved by the local planning authority.
- (iv) In order to maintain the character of the area in which the application site is located, permitted development rights under Part 1 of the General Permitted Development Order 1995 ("Development within the Curtilage of a Dwellinghouse") are hereby revoked in respect of the properties to be built on the application site."

To obtain planning permission, Chaucer Developments plc entered into a planning obligation with the local authority under s.106 of the Town and Country Planning Act 1990 obliging it to provide the sum of £500,000 as a contribution towards the funding of a new leisure centre in Nottingham city centre, two miles distant from the application site.

Chaucer Developments plc is unhappy with the above conditions and the terms of the planning obligation.

Advise the company as to:

- (a) the legal validity of each of the conditions (i) – (iv) above;
(10 marks)
- (b) the legal validity of the planning permission having regard to the planning conditions and terms of the planning obligation;
(7 marks)
- (c) any steps the company may take in order to seek to achieve alteration of the requirements of the planning conditions and planning obligation.
(8 marks)

(Total: 25 marks)

Turn over

Question 3

Speedo plc, a road haulage company, occupies two sites in the Trentington area:

Site A consists of two hectares of land which for many years had been derelict but was purchased by Speedo plc in 2008. Since that date, it has been used by the company as a haulage depot, without planning permission. In 2009 the site was hard surfaced with tarmac, again without planning permission. The only use to which the land could be put without planning permission is for agriculture, although this would be very costly as it would involve the removal of the hard surface.

Speedo plc recently applied for planning permission under s.73A of the Town and Country Planning Act 1990 to use Site A as a haulage depot. The local planning authority refused the application and the refusal has been upheld by the Secretary of State on appeal. Speedo plc now consider that the site is currently incapable of any reasonably beneficial use.

Site B consists of five hectares of land which until 1998 had been a derelict site. In that year the site was purchased by Speedo plc who began to use it, without planning permission, for the parking of their lorries. This use has continued ever since.

In early 2000 Speedo plc began to use, without planning permission, a disused workshop on Site B for the purpose of a business repairing and maintaining its own lorries and those owned by other haulage companies in the area. This business has continued ever since, except that in the winter of 2004 the company temporarily transferred the business to another site for a period of three months.

In 2005 the local planning authority indicated to Speedo plc that they would not grant planning permission for any new buildings on Site B. Nevertheless, without planning permission, in that year the company commenced and completed the construction of a new one-storey office building on the site and went into occupation of the building. In order to conceal the existence of the works, from 2005 to 2009 the building was entirely hidden behind a shield of old lorry containers and tarpaulins. Speedo plc removed the shield in 2009 and the company now considers the new building to be lawful development.

The local planning authority have issued an enforcement notice and served a copy on Speedo plc. The notice, which has been correctly served and drafted in the form of an enforcement notice, requires the termination of the use of Site B for the parking of lorries; the termination of the business of repairing and maintaining lorries; and the demolition of the new office building.

Advise Speedo plc as to:

- (a) the legal position regarding the existing use of site A and whether any remedy is available to the company following the dismissal of its planning appeal by the Secretary of State;

(10 marks)

- (b) the legal validity of the enforcement notice served in respect of Site B and the procedural steps available to the company, if any, should it decide not to comply with the requirements of the notice.

(15 marks)

(Total: 25 marks)

Question 4

Victor, a property developer, has just purchased two buildings in the City of Westchester, "Emmanuel House" and "The Red Lion".

Emmanuel House comprises a former Victorian workhouse building which is attached by means of an archway to an office building of much later construction. The office is attached to a range of other buildings which together form a courtyard layout.

The workhouse building has been listed as a building of special architectural or historic interest under the Planning (Listed Buildings and Conservation Areas) Act 1990, but none of the other buildings have been listed in their own right. The premises are all unoccupied and are not situated in a conservation area.

Affixed to an external wall of the office building is a large clock, dated 1880, which was originally affixed to the workhouse building. The workhouse building has fallen into disrepair and urgent repairs costing in the region of £100,000 are required. Victor has no plans to carry out any repairs to the workhouse building at Emmanuel House and intends to demolish all of the buildings, including the workhouse, and remove and sell the clock without seeking the consent of the local planning authority.

The Red Lion is a former public house building with a car park at the rear. The premises are now unoccupied. The building has not been listed and is not considered to have any architectural merit or have any historic interest. It is however, situated within an area which has been designated as a conservation area under the Planning (Listed Buildings and Conservation Areas) Act 1990. Within the boundary of the car park adjoining the public house are some mature oak trees which are not subject to tree preservation orders. Victor intends to demolish The Red Lion and to cut down the trees without obtaining the consent of, or notifying, the local planning authority.

The local planning authority have heard of Victor's proposals in respect of both Emmanuel House and The Red Lion and are most unhappy with them.

Victor wishes to be informed of any consents he needs to obtain from the local planning authority in order lawfully to carry out his proposals. He also wishes to learn of any powers exercisable by the local planning authority under the planning legislation should he carry out his proposals without obtaining any relevant consent or giving any relevant notification, as appropriate.

Advise Victor.

(25 marks)

End of Examination Paper