



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 the principal statutory duties and powers of the Secretary of State for Communities and Local Government in regard to the use and development of land.

(25 marks)

2. Analyse the statutory provisions under which compensation can be claimed from local planning authorities when they impose planning restrictions, omitting consideration of purchase notice procedures.

(25 marks)

3. (a) Analyse the means available to a developer of land with the benefit of planning permission to ensure that the permission will not lapse.

(15 marks)

- (b) Explain how a local planning authority can ensure that a development is completed once it has commenced in accordance with a grant of planning permission.

(10 marks)

(Total: 25 marks)

4. Analyse the function of:

- (a) development plans;

(10 marks)

- (b) "any other material considerations"

(15 marks)

in the determination of planning applications by local planning authorities.

(Total: 25 marks)

StudentBounty.com

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

Question 1

Hypo plc, a photographic company, has relocated its head office from London to the village of Cornbrash. Its new premises consist of a Victorian mansion standing in two hectares of grounds situated within the Cornbrash Conservation Area. The mansion is not a listed building, nor are any of the buildings within its grounds.

Hypo plc wishes to extend the mansion to provide offices and laboratories. The designated area for the proposed extension is occupied by the following:

- (a) A medieval stone cross, designated as an ancient monument, which Hypo plc wishes to move to another location within the grounds.
- (b) A Victorian conservatory of 250 cubic metres which Hypo plc wishes to demolish.
- (c) A small plantation of oak saplings, which are not the subject of a Tree Preservation Order but which Hypo plc wishes to cut down.

Advise Hypo plc as to the permissions and consents it will require, if any, in order to carry out the development it proposes.

(25 marks)

Turn over

Question 2

Evaluate each of the following two scenarios, which are unrelated.

- (a) Gabriel is a livestock farmer who keeps cattle on 200 hectares of pasture. He has been expanding his herd over the last five years. Near his farmhouse is a building ("the building") which he uses as an office/washroom/store. He applied to the Cornbrash District Council as local planning authority ("the LPA") for permission to convert the building into a dwelling to accommodate an agricultural worker. In support of his application Gabriel stated that he needed accommodation for a stockman to be on hand at all hours during the calving season. This normally takes place between November and May, but often extends into June and July.

The LPA's Local Development Framework provides that housing in the open countryside will be permitted only if there is a "permanent agricultural need". In addition, the (fictitious) ministerial Planning Policy Statement on Sustainable Development in Rural Areas ("the PPS") states that the test for deciding whether an additional worker is needed on a site is whether the worker "needs to be present at most times". The LPA has refused Gabriel's application on the basis that the stockman could live elsewhere as he needed to be on hand only in the winter months when the cows were calving and also that the stockman could use the building as a temporary shelter. For the majority of the year the cows could be left unsupervised.

Advise Gabriel how, if at all, he could challenge the decision of the LPA.

(13 marks)

- (b) Jethro and his wife operate a pig farm on land ("the Site") designated for agricultural use only. They specialise in rare breeds of high quality.

For 17 years Jethro leased a house on land adjacent to the Site. The lease expired at the end of last year and the owner of the land declined to renew it. Jethro moved a mobile home onto the Site with his wife and children, all three of whom are of school age. He has also constructed a barn and storage sheds, again without planning permission.

The Cornbrash District Council as local planning authority ("the LPA") has served enforcement notices on Jethro to curtail the use of the Site for residential and other non-agricultural purposes. Jethro has failed to comply with the notices and the LPA has applied to the High Court for an injunction, requiring Jethro to cease using the mobile home, the barn and the storage sheds and to remove them from the Site. The Council accepts that Jethro, his wife and his children would be in priority need of housing, but cannot guarantee that the family will be rehoused in the area.

Jethro maintains that his family should be permitted to remain on site to run the successful pig breeding business and considers that his human rights have been infringed.

Advise Jethro on any legal rights he may have in resisting the action the LPA has taken.

(12 marks)

(Total: 25 marks)

Question 3

Evaluate each of the following two scenarios, which are unrelated.

- (a) Vera is a supplier of tiles and, in the normal course of her business, operates commercial vehicles for making deliveries and moving personnel between her firm's seven locations. Vera has admitted that when a vehicle is not needed she sometimes parks it on the road near to her showroom with a board advertising the business. Cornbrash District Council ("the Council") has prosecuted Vera for displaying an advertisement on four vehicles on several occasions over an approximate 12 week period without consent, contrary to the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 ("the Regulations") and the Town and Country Planning Act 1990.

The Regulations provide that an advertisement displayed on or in a vehicle or vessel, unless it is being used primarily for the display of advertisements rather than for conveying people or goods, is exempt from control.

Advise Vera on any defence she may have to the prosecution.

(13 marks)

- (b) Cornbrash District Council ("the Council") owns a disused water mill, Steepford Mill ("the Mill"), which it wishes to demolish in order to widen a road. It forms part of a picturesque group of buildings situated in a local beauty spot. The Save Steepford Mill Action Group ("SMAG") is composed of local people opposed to the Council's proposed demolition of the Mill. It has erected a banner, near the Mill, on the house of one of its members, Colin. The banner carries the slogan "Save Steepford Mill" in red capital letters, along with SMAG's logo and its contact details. The size of the banner is 2m x 0.65m.

The Council has prosecuted Colin for displaying an advertisement without permission, contrary to the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and the Town and Country Planning Act 1990. Colin argues that the banner is not an advertisement; that the Council is acting as a judge in its own cause; and that it has infringed his human rights.

Advise Colin on any defence he may have to the prosecution.

(12 marks)

(Total: 25 marks)

Turn over

Question 4

Jane owns 30 hectares of land ("the Site") in the London Borough of Newham, which is situated within the metropolitan green belt. Ten hectares of the site is occupied by a privately-owned sports ground and a large sports pavilion. The rest of the site consists of overgrown parkland, formerly part of Netherfield Manor.

Jane submitted an outline application to the Council as local planning authority ("the LPA") for permission (a) to demolish the pavilion and redevelop the sports ground with spectator accommodation, and (b) to develop 10 hectares of the parkland as a cemetery and crematorium with chapels, a garden of remembrance, a woodland green burial ground and new access road to create a one-way traffic system. The remaining 10 hectares of parkland would be protected as a nature reserve. The plans Jane submitted with her application indicated that the crematoriums would be located in the basement of the proposed crematorium building with offices and function rooms above on two stories. The crematorium smoke stack was shown to be over 12 metres in height in order to comply with statutory crematorium standards.

The LPA's Development Plan provides that except in "very special circumstances" permission will not be granted for development in the green belt. The Secretary of State's (fictitious) PPS (Planning Policy Statement) on *Green Belt* ("the PPS") provides that the construction of new buildings in the green belt is "inappropriate development" unless it is for one of a number of specific purposes, which include cemeteries but not crematoria. It also states that development for essential facilities which preserve the openness of the green belt, such as unobtrusive spectator development for outdoor sport, will be permitted. The PPS further states: "Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations".

The LPA has refused planning permission on grounds of non-conformity with the Development Plan and the PPS.

Jane appealed to the Secretary of State, arguing that the demolition of the pavilion would benefit the green belt; that the cemetery was compatible with green belt policies; that there was a need for it; and that only the crematorium basement and the smoke stack would be used for non-cemetery purposes.

The Secretary of State's Inspector rejected Jane's appeal. Jane now wishes to appeal to the High Court. Advise her how, if at all, she can challenge the decision of the Secretary of State.

(25 marks)

End of Examination Paper

© 2012 Institute of Legal Executives

BLANK PAGE

StudentBounty.com

BLANK PAGE

StudentBounty.com