

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

**TOWN AND COUNTRY PLANNING ACT 1990 (as amended by the PLANNING
AND COMPENSATION ACT 1991)**

BREACH OF CONDITION NOTICE

Issued by: North East Lincolnshire Borough Council

- 1. This is a formal notice** which is issued by the Council, under Section 187A of the above Act, because the Council considers that conditions imposed on a grant of planning permission DC/311/09/HUM relating to the land described below, have not been complied with. It considers that you should be required to secure compliance with the conditions specified in this notice.

- 2. The land affected by the notice**

The land known as Abey Furnishing Co Ltd, Wilton Road, Wilton Road Industrial Estate, Humberston, North East Lincolnshire DN37 4AJ (edged red on the attached plan).

- 3. The relevant planning permission**

The relevant planning permission to which this notice relates is the permission granted by the Council on the 30th July 2009 as per approved planning application no. DC/311/09/HUM (attached hereto).

- 4. The breach of conditions**

The following conditions have not been complied with:-

Condition 2

No development, hereby approved, shall be commenced on the site until:-
(a) a scheme of landscaping showing the details of the number, species, sizes and planting positions of all trees and shrubs to be planted has been submitted and approved in writing;
(b) a plan including details of all trees within the site to be retained, any trees to be felled, the hedgerows to be retained, any sections of hedgerow or trees which are to be removed;
(c) measures for the protection of trees and hedges during construction work including soil preservation, have been submitted to and approved in writing by the Local Planning Authority.

Condition 5

No machinery shall be operated, no process shall be carried out and no deliveries to be taken in or dispatched from the site in connection with the construction of the development hereby approved outside the hours of 08.00am to 6.00pm Monday to Friday, 8.00am to 1pm Saturday and not on Sundays or Bank Holidays or any other time unless agreed in writing with the Local Planning Authority

Condition 6

No development shall take place until the applicant, or their agent or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved, in writing, by the Local Planning Authority.

Condition 7

The applicant, or their agents or successors in title, shall give the Local Planning Authority at least 14 days written notification of the start date for commencement of development.

Condition 9

Before any development is commenced on site wheel cleaning facilities shall be provided to a standard and in such a position as previously approved in writing by the Local Planning Authority and shall thereafter be so retained during the period the construction works on the site are taking place and used to the satisfaction of the Local Planning Authority.

Condition 11

The development hereby permitted shall not commence until details and/or samples of all external materials to be used in the external construction of the proposed buildings have been submitted to and approved in writing by the Local Planning Authority

Condition 14

No machines to be used, and only hand digging to be undertaken, when excavating beneath the crown spread of any trees on site, unless consent is given by the Local Authority. Any roots exposed over 25mm diameter, should be carefully retained undamaged and protected i.e. from unnecessary damage and drying out. All backfilling over exposed roots to be of top soil or washed sand, carefully tamped by hand around and over all roots before continuing to backfill with other materials required for the finished treatment. There shall be no change in the existing ground levels on the site, especially close to or beneath the crown spread of any trees on site, unless consent is given by the Local Planning Authority.

Condition 15

No trees and/or hedges within the application site shall be wilfully damaged, cut-down, up-rooted, pruned, felled or destroyed without the prior written consent of the Local Planning Authority and any trees or hedges existing on the site at the date of application and which have been indicated for retention as part of any scheme approved in writing by the Local Planning Authority, shall, in the event of their subsequent failure to survive, or removed, be replaced within (12 months) of their failure by the planting of such live specimens in such number as may be approved in writing by the Local Planning Authority.

5. **What you are required to do**

As the person responsible for the breach of condition specified in paragraph 4 of this notice, you are required to comply with the stated conditions by taking the following steps:-

Requirement No. 1

Submit a scheme landscaping to include proposed planting, retained planting and tree and hedge protection measures as detailed in Condition 2.

Requirement No. 2

Do not undertake any operation or process outside the hours of 8.00am to 6.00pm Monday to Friday, 8.00am to 1pm on Saturday and at any time on a Sunday or Bank Holiday.

Requirement No. 3

Submit a programme of Archaeological work for approval by the Local Planning Authority.

Requirement No. 4

Give the Local Planning Authority at least 14 days written notice prior to commencement.

Requirement No. 5

Submit details of wheel cleaning facilities for approval by the Local Planning Authority.

Requirement No. 6

Provide samples/or details of all external materials to be used in the external construction of the building for approval by the Local Planning Authority.

Requirement No. 7

No machinery to be used beneath the crown spread of any trees on the site.

Requirement No. 8

No trees and/or hedges to be wilfully damaged, cut-down, up-rooted, pruned, felled or destroyed without prior written approval by the Local Planning Authority.

Time for Compliance:

Requirement No. 1, 2 & 3

28 Days from the date this notice takes effect

Requirement No. 4

14 days prior to commencement

Requirement No. 5, 6, 7 & 8

28 Days from the date this notice takes effect

6. When this notice takes effect

This notice takes effect immediately it is served on you or you receive it by postal delivery.

Signed:



Dated:

20/5/2010

On behalf of: North East Lincolnshire Borough Council

WARNING

There is no right of appeal against the notice

It is an offence to contravene the requirements stated in paragraph 5 of this notice after the end of the compliance period. You will then be at risk of immediate prosecution in the Magistrates' Court, for which the maximum penalty is £1,000 for a first offence and for any subsequent offence. If you are in any doubt about what this notice requires you to do, you should get in touch immediately with Miss K Walker, Planning and Transportation Department, Origin Two, Origin Way, Europarc, Grimsby DN37 9TZ. Tel. 01472 324998

If you need independent advice about this notice, you are advised to contact urgently a lawyer, planning consultant or other professional adviser specialising in planning matters. If you wish to contest the validity of the notice, you may only do so by an application to the High Court for judicial review. A lawyer will advise you on what this procedure involves.

Do not leave your response to the last minute

NOTICE OF DECISION

Application Number: DC/311/09/HUM

Issuing Authority: North East Lincolnshire Council

Applicant's Name and Address:

Abey Furnishing Co Ltd
Mr D Carroll
Wilton Road
Humberston
N E Lincolnshire
DN37 4AJ

Agent's Name and Address:

Lincs Planning Consultancy
Mr A Clover
32 Eastgate
Louth
Lincolnshire
LN11 9NG

The following decision has been made upon your application received on **16th April 2009**

Application Site: Wilton Road (Abey Furnishing Co Ltd) Wilton Road Industrial Estate
Humberston

Proposal: Showroom/warehouse extension

Granted subject to:-

1 Condition

The development hereby permitted shall be begun within a period of three years from the date of this permission.

Reason

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2 Condition

No development, hereby approved, shall be commenced on the site until:-

- (a) a scheme of landscaping showing the details of the number, species, sizes and planting positions of all trees and shrubs to be planted has been submitted and approved in writing;
- (b) a plan including details of all trees within the site to be retained, any trees to be felled, the hedgerows to be retained, any sections of hedgerow or trees which are to be removed;
- (c) measures for the protection of trees and hedges during construction work including soil preservation,

have been submitted to and approved in writing by the Local Planning Authority.

Reason

To ensure a satisfactory appearance and setting for the approved development and protection of existing features in the interests of local amenity.

3 Condition

The scheme of landscaping and tree planting to be approved in writing by the Local Planning Authority shall be carried out in its entirety within the period of 12 months beginning with the date on which development is commenced, or within such longer period as may be agreed in writing with the Local Planning Authority. All planting shall be adequately maintained for the period of 5 years beginning with the date of completion of the scheme and during that period all losses shall be replaced during the next planting season to the satisfaction of the Local Planning Authority

Reason

To ensure a satisfactory appearance and setting for the approved development, and to ensure the continued maintenance of the approved landscaping in the interests of local amenity.

4 Condition

The warehouse extension hereby approved shall not be used independently and shall only be used for a warehousing purpose incidental to the operation of the main site as outlined on Plan No. KD03704-05.

Reason

To ensure adequate car parking and servicing facilities are available off street.

5 Condition

No machinery shall be operated, no process shall be carried out and no deliveries to be taken in or dispatched from the site in connection with the construction of the development hereby approved outside the hours of 08.00am to 6.00pm Monday to Friday, 8.00am to 1pm Saturday and not on Sundays or Bank Holidays or any other time unless agreed in writing with the Local Planning Authority.

Reason

To protect the amenities of nearby residents.

6 Condition

No development shall take place until the applicant, or their agent or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved, in writing, by the Local Planning Authority.

Reason

The site is of known or potential archaeological significance and it is Council policy that the appropriate provision for the recording of archaeological remains is made prior to their damage or destruction by development.

7 Condition

The applicant, or their agents or successors in title, shall give the Local Planning Authority at least 14 days written notification of the start date for commencement of development.

Reason

To ensure adequate opportunity for the implementation of the archaeological mitigation strategy.

8 Condition

If, during development, contamination not previously considered is identified, then the Local

Planning Authority shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspect contamination has been submitted to and agreed in writing with the Local Planning Authority.

Reason

To ensure all contamination within the site is dealt with.

9 Condition

Before any development is commenced on site wheel cleaning facilities shall be provided to a standard and in such a position as previously approved in writing by the Local Planning Authority and shall thereafter be so retained during the period the construction works on the site are taking place and used to the satisfaction of the Local Planning Authority.

Reason

In the interests of road safety.

10 Condition

Development shall proceed fully in accordance with the mitigation measures set out in the approved Flood Risk Assessment, submitted by Lincs Planning Consultancy with the North East Lincolnshire Council date stamp of 16th April 2009 and the applicant shall confirm completion of the approved scheme in writing within one month thereafter.

Reason

To reduce the risk of flooding.

11 Condition

The development hereby permitted shall not commence until details and/or samples of all external materials to be used in the external construction of the proposed buildings have been submitted to and approved in writing by the Local Planning Authority.

Reason

To ensure that the proposed development has an acceptable external appearance and is in keeping with the visual amenity and character of the area.

12 Condition

The fire door shown on the north eastern elevation of the extension on approved plan ref. no. KD03704-03 shall not be utilised for the day to day operations of the site e.g. deliveries, retail sales, customer/staff entrance/exit or leisure area.

Reason

To maintain neighbours' amenities.

13 Condition

All tree works to be carried out to British Standards 3998:1989: Recommendations for Tree Work; to an approved 'Schedule of Works' agreed by and to the satisfaction of the Local Planning Authority.

Reason

To ensure a satisfactory standard of tree work.

14 Condition

No machines to be used, and only hand digging to be undertaken, when excavating beneath the crown spread of any trees on site, unless consent is given by the Local Authority. Any roots exposed over 25mm diameter, should be carefully retained undamaged and protected i.e. from unnecessary damage and drying out. All backfilling over exposed roots to be of top soil or washed sand, carefully tamped by hand around and over all roots before continuing to backfill with other materials required for the finished treatment. There shall be no change in the existing ground levels on the site, especially close to or beneath the crown spread of any trees on site, unless consent is given by the Local Planning Authority.

Reason

To avoid damage to existing trees and hedging.

15 Condition

No trees and/or hedges within the application site shall be wilfully damaged, cut-down, up-rooted, pruned, felled or destroyed without the prior written consent of the Local Planning Authority and any trees or hedges existing on the site at the date of application and which have been indicated for retention as part of any scheme approved in writing by the Local Planning Authority, shall, in the event of their subsequent failure to survive, or removed, be replaced within (12 months) of their failure by the planting of such live specimens in such number as may be approved in writing by the Local Planning Authority.

Reason

In order to preserve and ensure the continuity of the existing landscape features of the site in the interest of local amenity.

16 Condition

The development shall proceed in strict accordance with approved plans by KD Design Partnership with the North East Lincolnshire Council date stamp of 16th April 2009 with plan nos. KD03704-03, KD03704-04 and KD03704-05 along with the Design and Access Statement by Lincs Planning Consultancy and Arboricultural Survey and Report by Lindsey Tree Services.

Reason

To ensure a satisfactory form of development.

17 Informative

The landscaped area shown on the approved plans between the warehouse extension and residential houses fronting Grimsby Road should be maintained as a buffer zone between uses to protect residential amenities of adjoining occupiers.

18 Informative

Existing ground levels should not be increased otherwise surface water drainage problems may result.

19 Informative

If there is a watercourse on or adjacent to your site, please bear in mind that it is an offence, to fill drainage pipes or culvert any ditch, dyke, streams or watercourses without first submitting plans and sections to the Council's Director of Technical Services for approval. It is essential that this information is submitted well in advance of any intended work.

Even though direct works to drainage pipes, culverts, ditches, dykes, streams or watercourses

are not contemplated, the Director of Technical Services is empowered under the Public Health Legislation to require such converting to be carried out in the case of a watercourse on the site or abutting the site of land being set out for building. This requirement may be enforced even if you do not own the ditch, the notices requiring such culverting work has a cost attached to it, so it is in your interest to establish the correct course of action as soon as possible.

20 Informative

Owners of land adjoining the site to be developed may have natural rights of drainage onto, or across the site. Neither the proposed development, nor temporary works required during the construction, should prejudice this natural right of drainage. If the level of the land on any part of the site is to be raised, or if walls or fences are to be erected which might disrupt drainage paths, the developer must provide suitably designed cut off drains to intercept and divert both the surface and sub-surface drainage flows. Details of the proposals must be submitted to and approved by the Director of Technical Services before the commencement of works on site.

21 Informative

As this site lies within 250 metres of a landfill site the Environment Agency was consulted on this application. Although the Environment Agency had no comments to offer on the application with respect to landfill matters this opinion is based on their current knowledge of the landfill site. It is not an absolute guarantee that the landfill site is free of contamination or that it is not generating landfill gas. You are therefore reminded that the responsibility for safe development and secure occupancy of the application site rests with the developer who should take appropriate measures to ensure that the site is not affected by landfill gas.

22 Informative

Under the terms of the Water Resources Act 1991 and the Drainage Bylaws the prior written consent of the Environment Agency would be required for any proposed works within 9 metres measured horizontally from the foot of Anthony's Bank. It appears that this Bylaw may apply to this development. The developer is requested to contact the Environment Agency's Development Control Team on 015223 785358 for further advice and information.

23 Reason for Approval

The extension approved would promote economic development and conform to the commercial nature of the allocated Wilton Road Estate whilst maintaining an acceptable landscaped boundary zone to dwellings on Grimsby Road and Wilton Road protecting residential amenities and the visual quality of the area. The extension would also provide sufficient car parking and servicing without detriment to highway safety, maintain the health of protected trees and limit the risk of flooding, in accordance with saved Policies GEN1, E1, E13, T6, NH5 and NH6 of the North East Lincolnshire Local Plan 2003.

This Notice is issued on behalf of the Local Planning Authority.

Signed:

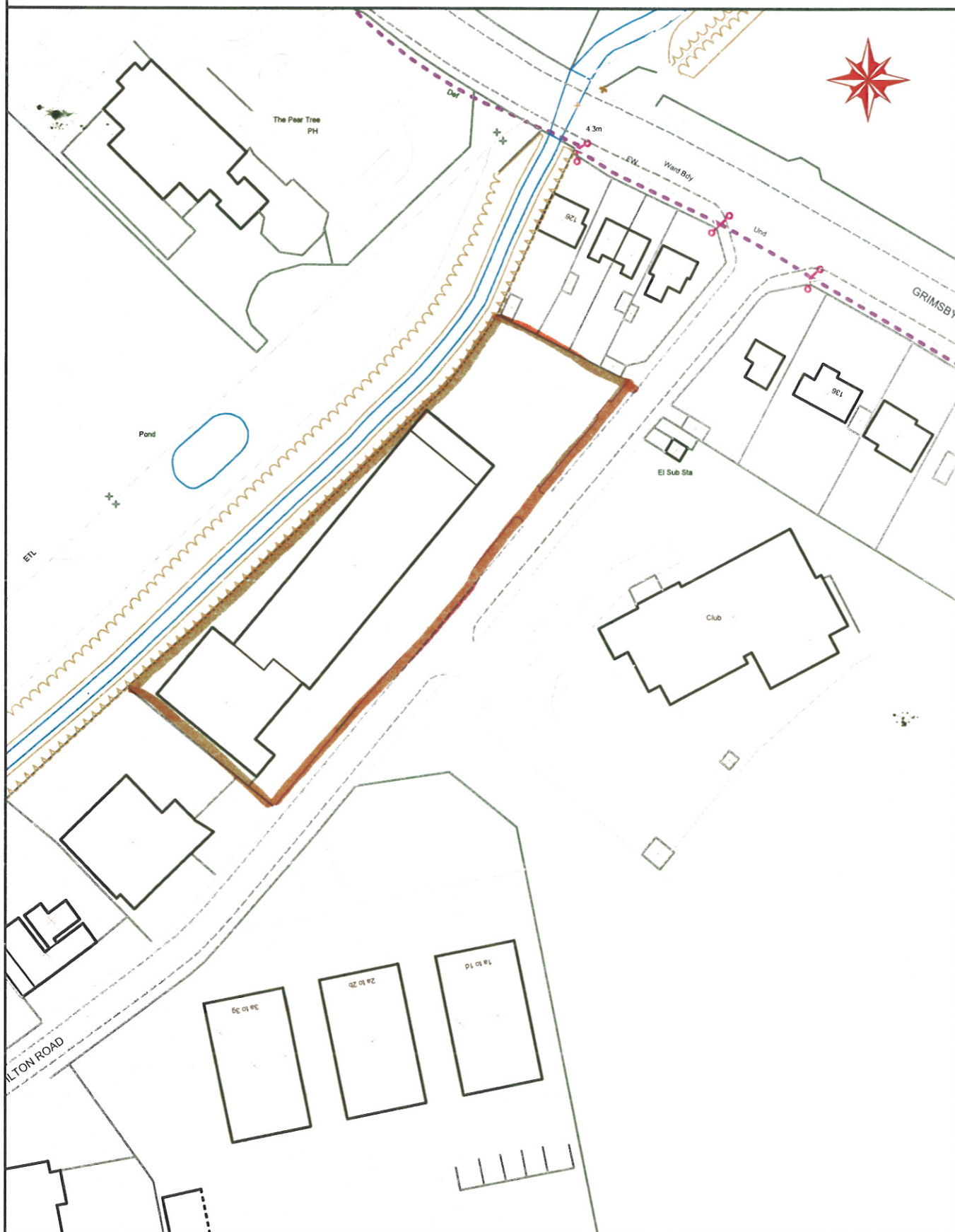


Dated: 30th July 2009

Marc Cole

Official Capacity: Executive Director of Regeneration

Location Map



 NORTH EAST LINCOLNSHIRE COUNCIL www.nelincs.gov.uk	Details Cleethorpes Town Centre		Rev No.		(C) Crown Copyright. All Rights Reserved licence number 100020759 2009	
	Drawn by JB	Scale Not to Scale	Date 26th Jan 10		Aligned Assets Limited Links One, Links Business Centre Old Woking Road, Old Woking Surrey, GU22 8BF	www.aligned-assets.co.uk
	File Pathname / Project / Drawing No.					