

Planning permission for development of the site was originally granted in 2004 for "Demolition of existing buildings and dwellings, conversion of barns and erection of new dwellings". A subsequent planning application in 2006, on behalf of The Hesley Group, was approved for "Part demolition and redevelopment of farm to form residential care home for young adults"

Planning permission 2006/0205 was granted because the principle of the development was acceptable. At the time it was stated in the decision notice that "an overall loss of buildings will benefit the openness of the green belt". Additionally the proposal was judged to "create jobs, improve the access and make provision for wildlife and archaeology". Therefore there is nothing in the overall reasons for granting planning permission to suggest that the development was judged to be harmful, but an exception was being made because of the particular needs of the Hesley Group.

However the imposition of Condition 16 which says "*The uses hereby permitted shall be carried out only by the Hesley Group*" implies the opposite and that permission would have been refused if anybody else was proposing to occupy the buildings once the development had been carried out. Nevertheless this is not supported by either general reasons for granting planning permission as set out above nor by the specific reason given for the Condition which is stated to be "*Owing to the special circumstances of the applicants*". This reason for the condition lacks precision in defining exactly why it is being imposed in relation to the necessity for the condition.

The Local Planning Authority is reminded that paragraphs 93 and 94 of Circular 11/95 make it plain that personal conditions are only to be used in exceptional circumstances when planning permission would normally not be allowed but where there may be compassionate or other personal grounds for making that exception. In particular the Council should note that paragraph 93 states "*a permission personal to a company is inappropriate because its shares can be transferred to other persons without affecting the legal personality of the company*". It also goes on in paragraph 94 to say "*commercial and industrial buildings in an area of open countryside will not become more acceptable because their occupancy is restricted....*" and "*The Secretaries of State therefore regard such conditions as undesirable in principle*". Finally it should note the final sentence of paragraph 93 which states "*This condition will scarcely ever be justified in the case of a permission for the erection of a permanent building*". On these grounds alone when judged against the Secretaries of States' guidance the imposition of the condition in this case was unreasonable.

The condition will interfere with the business affairs of The Hesley Group as the property is not capable of being used as security in relation to its financial arrangements. Whilst this in itself may not be the overriding factor to justify removal of the condition, the consequences on The Hesley Group not being able to take measures to ensure its viability and sustainability will affect jobs and deprive those in need of specialist care not found elsewhere locally. Therefore The Hesley Group are making this application under the Town and Country Planning Act 1990 for removal or variation of a condition following grant of Planning Permission to enable them to continue to occupy the property without compliance with Condition 16. Given the potential consequences and reference to Circular 11/95 it is hoped that the Council will support this application and remove the condition in question subject to keeping the use the same.