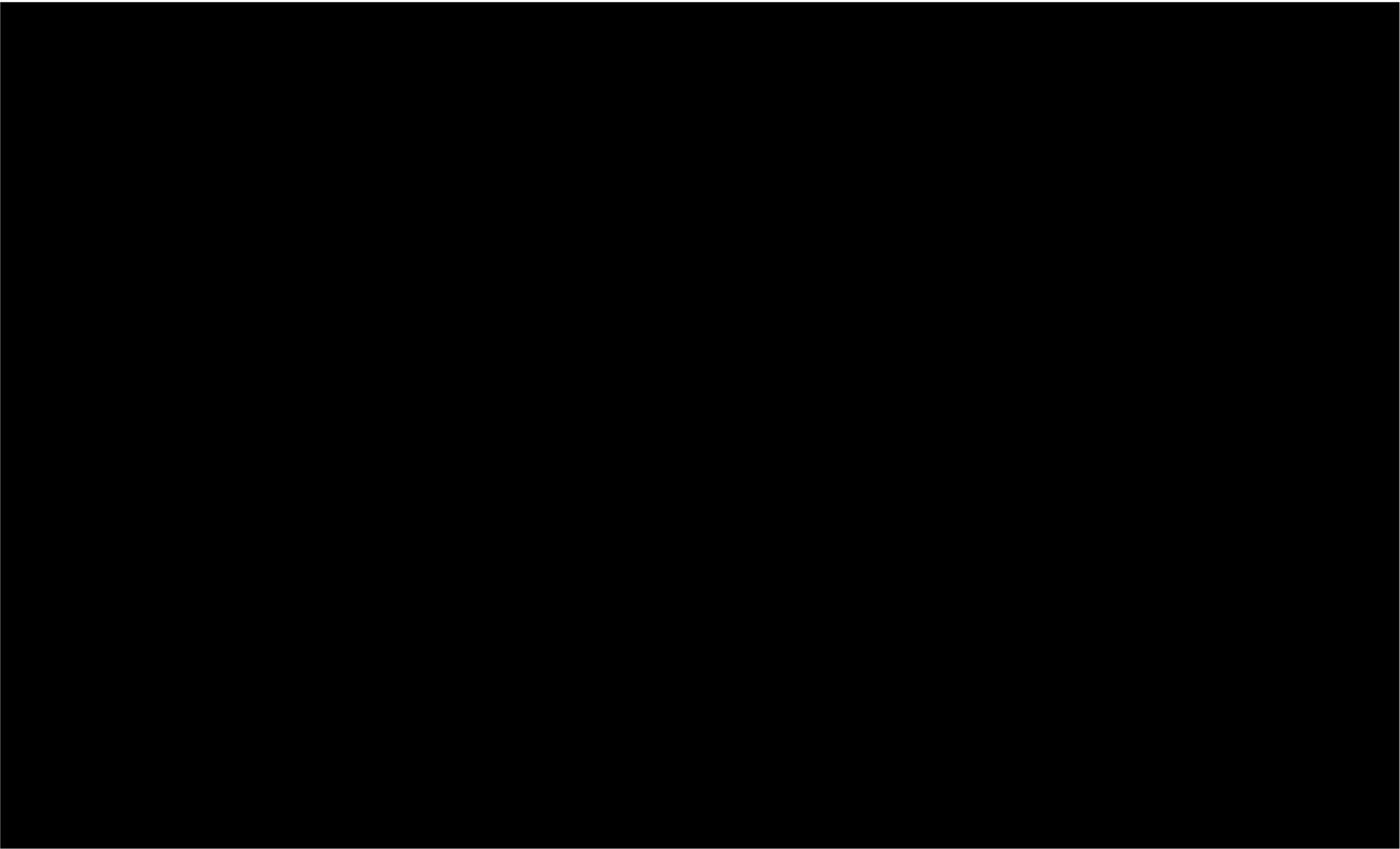




From: Tim Rainbird [REDACTED]
Sent: 14 August 2014 15:33
To: Cian Cronin
Cc: Neil Crowther
Subject: Oldlands Farm - Proposed Floorspace Cap
Importance: High

Cian,

Thank you again for the early release of the committee report.

Having briefly reviewed the conditions the proposed floorspace cap stands out.

As you will know from our discussions on this matter, which date back to before our meeting on 1 August, this condition is an issue for us. It has significant commercial ramifications because of the removal of flexibility and the requirement to apply for planning permission for changes that are not even defined as 'development'. The condition as proposed states:

"The gross internal area for Unit 1 shall not exceed 25,600 square metres. No mezzanine floors are to be inserted in any part of the building without the prior approval of the Local Planning Authority.

The gross internal area for Unit 2 shall not exceed 12,450 square metres. No mezzanine floors are to be inserted in any part of the building without the prior approval of the Local Planning Authority.

Reason: To accord with the stated intentions of the submitted Planning Statement and Design and Access Statement."

We would like the condition to be removed for the following reasons.

As you know, under S70(1) of the 1990 Act LPAs are empowered to impose “such conditions as they think fit”. Those conditions must be valid and therefore fairly and reasonably relate to the permitted development. Any condition must also be imposed for a “planning” purpose and should not be so unreasonable that no reasonable LPA could have imposed it. Article 31 of the DMPO also requires LPA’s to “state clearly and precisely their full reasons...for any condition imposed”.

The NPPF at para 206 states that six tests need to be met where conditions are imposed. The PPG further advises that *‘it is important to ensure that conditions are tailored to tackle specific problems, rather than standardised or used to impose broad unnecessary controls’*.

The condition above removes a Parliamentary right for internal floorspace to be installed. That floorspace is not defined as ‘development’. Moreover, the stated reason for the condition does not serve a “planning” purpose; it does not relate to a legitimate planning objection of importance and indeed the reason does not provide any lawful reasoning to justify its imposition (see The High Court in *Mirai Networks Ltd vs Secretary of State for the Environment* [1994] J.P.L. 337).

If the reason for the condition relates to highways objections it should explicitly say so. To impose the condition because it is believed to be ‘good planning practice’ does not seek to tackle a specific problem. Nor is it relevant to refer to the ‘stated intentions’ of a submitted document when those documents do not state either explicitly or implicitly that there is no intention to create more floorspace inside the building. Why would they, when those works are not even defined as ‘development’. Moreover, we have made it very clear since this issue arose that either Rolls Royce or any future occupier would want the flexibility afforded to the development which is a statutory right. We have supplied evidence to counter any highways concerns. We have factored a doubling of floorspace and Hanbury’s Phase 1a development. That evidence has been provided to County and they have not expressed concern. If the network were at or close to capacity concerns would have been raised. They were not. Highways is seemingly not the issue which therefore begs the question, what is?

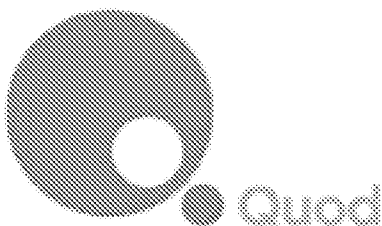
In summary, the reasoning for the condition highlights that it does not serve a “planning” purpose. It does not relate to a legitimate or prescribed planning objection which it is seeking to overcome. It is an unnecessary form of control which removes a statutory right afforded by Parliament. To remove that right for the reason set out makes the condition invalid. This is confirmed in the Act and in legally binding case law.

I would therefore ask that you reconsider the need to impose this restriction. I have copied this email to Neil given you are going on leave at the end of today and would welcome a discussion as soon as possible.

Finally, this discussion should not detract from what has been achieved in a short space of time and your flexibility and pragmatism has been key to that. We are very grateful. However, the LPAs efforts to date should not be a reason to impose a control that really has no basis in law. To do so seeks to undo what has been achieved.

Thank you.

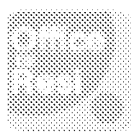
Tim



Tim Rainbird
Director
Tim.rainbird@quod.com

Direct: 020 3597 1009 Ingerl Building
Mobile: 07854451539 17 Broadwick Street
Main: 020 3597 1000 London
www.quod.com W1F 0AX

Introducing Quod North. Quod is now in London and Leeds.



[Try out our online tools...](#)

Invaluable resources for planners and developers.

This e-mail message and any attached file is the property of the sender and is sent in confidence to the addressee only. Internet communications are not secure and Quod is not responsible for their abuse by third parties, any alteration or corruption in transmission or for any loss or damage caused by a virus or by any other means.

Quod Limited, company number: 07170188 (England).

Registered Office: Ingeni Building, 17 Broadwick Street, London W1F 0AX