HULME UPRIGHT MANNING

ARCHITECTS
TOWN PLANNERS
URBAN DESIGNERS
LANDSCAPE ARCHITECTS
INTERIOR DESIGNERS
CDM CO-ORDINATORS

Highpoint
Festival Park
Stoke-on-Trent
ST1 5SH
T 01782 208 600
F 01782 206 080
E stoke@hum-arch.co.uk
www.hulmeupright.co.uk

Our Ref: H:\PG/LL/21000/C2

Date: 5th November 2008



Mr R Duncan
Development Control Manager
Staffordshire Moorlands District Council
Moorlands House
Stockwell Street
Leek
Staffordshire
ST13 6HQ

08/01057

Dear Mr Duncan

Re:Town and Country Planning Act 1990
Variation of Condition 9 of Permission ref: 03/01344/OUT
Residential Development at Black Lane, Whiston

Please find attached the completed forms, location plan and fee relating to the above.

Our clients HLW Developments Ltd have requested that we submit to you an application to vary Condition 9 of Planning Permission Ref: 03/01344/OUT which relates to the disposal of foul and surface water from the site off Black Lane Whiston.

Outline planning permission was granted in January 2005 for residential development including Affordable Housing at this site.

Reserved Matters approval was subsequently granted in September 2005 and the process of securing agreement to the discharge of conditions has been significantly advanced since that date.

Condition 9 of the outline permission was imposed at this preliminary stage in order to "prevent the pollution of the water environment". It is arguable that in addition to this reason of equal importance is "To ensure satisfactory drainage of the site and to avoid flooding".

The need for an appropriately worded condition to deal with drainage issues is, of course, fully appreciated. However, the condition attached to the outline permission is highly prescriptive particularly given the close and detailed involvement that Severn Trent Water Authority has subsequently required during the design stage of a suitable drainage scheme for the development.

Condition 9 of Permission Ref: 03/01344/OUT states that;

Partners
David Morrey
BA(Hons), Dip Arch, RIBA (Managing)
David Vokes
BA(Hons), Dip Arch, RIBA
Philip Gratton
BA(Hons), M.Phil, MRTPI
John Sambrook
Dip Arch, RIBA
Philip Wootton
BA(Hons), Dip Arch, RIBA, AABC
Oliver Cotton
BA(Hons), BArch(Hons), RIBA
Lee Grady
MCIAT, ACIOB, ACIArb, MCMI
David Horne
Dip Arch(Hons), RIBA

Associates
Anthony Collins
MCIAT, ACIArb, ACIOB
Keith Eastwood MCIAT
Richard Hart
BA(Hons) Arch(Int), Dip Arch, MArch, RIBA
Elizabeth Hill DipLA MLI
Leslie Hughes MCIAT
Dryden McNair-Lewis
BA(Hons), Dip Arch, Dip Urb Des, RIBA
Andrew Palin MCIAT
David Perkin MCIAT
Beverley Poole
BA(Hons), Dip Arch, RIBA
Mark Rizk
BA(Hons), Dip Arch, RIBA

Practice Secretary
Roger Spooner MIAB

Consultant
David Carr OBE DL
MRICS, FCIOB, FCMI

Stoke-on-Trent
Manchester

INVESTOR IN PEOPLE
constructionline
POSITIVE ABOUT DISABLED PEOPLE

"The development hereby permitted shall not be commenced until a scheme has been submitted to and approved in writing by the Local Planning Authority in respect of the details of the proposals for the disposal of foul and surface water from the site. Such details shall comply with or provide in particular for the matters specified below. No part of the development shall be commenced until the approved works have been completed in accordance with approved scheme. The matters specified are -

a) the envisaged effect of the development on all existing watercourses and ditches on or within 3 metres of the site, and. a scheme of works or protective measures in respect of such existing water courses and ditches and the timing of these works

b) that all foul drainage shall be directed to a foul sewerage system and all surface water drainage to a surface water sewerage system, unless otherwise agreed by the Local Planning Authority in writing.

c) that surface or foul water shall not discharge to any ditch or watercourse

d) that surface water shall not discharge to the main sewer system

e) the manner in which the proposals relate to the public sewer and provide particulars to demonstrate that the sewer and the buildings' foundations are each capable of maintenance without interference with the other.

f) that no development shall take place within 3 metres either side of the public sewer which crosses the site.

g) that before discharge all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor designed so as to have a capacity and details compatible with the site being drained and constructed to a specification submitted to and approved in writing by the Local Planning Authority before the drainage works are commenced. Roof water shall not pass through the interceptor.

h) that there shall be no discharge of foul or contaminated drainage from the site into either groundwater or any surface water. whether direct or via soakaways."

As stated above, the need for a condition of this kind is fully recognised as is the necessity to ensure that the scheme proposed should be submitted to and approved by the Local Planning Authority prior to the commencement of the development. However, the condition as worded also requires all works proposed under the agreed scheme to be completed before any part of the development itself is commenced. This is considered to be unreasonable when judged against the advice and guidance set out in Circular 11/95, particularly para.36 which addresses the issue of onerous requirements. The requirements of the condition as worded would necessitate considerable and expensive on-site drainage works to be completed in advance of the commencement of any other remediation, infrastructure or construction works.

The scheduling and practicality of completing these different areas of works required for the development of this site has to be fluid and the order in which these works are commenced/ completed is liable to change given the influence of outside factors. Given the need for this construction flexibility the requirement to complete the drainage works in advance of the commencement of any part of the development is considered to be unreasonable.

In contrast, it would be both reasonable and, more importantly, necessary to require the agreed drainage scheme to be fully implemented before any of the proposed dwellings are occupied and it is therefore suggested that the above condition is varied to read as follows;

> *"The development hereby approved shall not be commenced until a scheme of foul drainage and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be completed before the development is occupied."*

Reason

To ensure satisfactory drainage of the site, to avoid flooding and prevent the pollution of the water environment.

This re-worded condition would not in any way erode the substance of its focus but would remove the current onerous requirements of the condition in respect of the timing and scheduling of works.

The proposed variation of Condition 9 would also ensure consistency with the requirements of an adjoining site (land adjoining 4 and 5 The Plain, Black Lane, Whiston) which now has Reserved Matters approval. Condition 8 of that approval, and its related 'Reason', is worded precisely as the variation proposes in this case. Both Condition 8 of 05/00782/REM and the proposed condition for my clients Black Lane development will ensure that adequate drainage infrastructure will be provided, at the appropriate time, to ensure satisfactory drainage and the avoidance of flooding to the satisfaction of the Local Planning Authority and the governing water Authority – Severn Trent Ltd.

It should be noted that an appropriate drainage scheme has already been designed between my client and Severn Trent Water Ltd and a formal agreement has been drawn up for the diversion of the public sewer at the development site along with a comprehensive scheme for the attenuation and discharge of surface water into the combined sewer. This agreement is attached to this application and we would respectfully request that this drainage scheme is agreed in writing by the Local Planning Authority.

Given that there is already an agreed scheme involving Severn Trent Water Ltd it follows that such a scheme would be to the satisfaction of the Local Planning Authority.

The issue, therefore, is simply that of timing. The current wording requires the scheme to be fully implemented before the construction of any of the residential units, site remediation or infrastructure works can begin.

The proposed wording requires implementation of the agreed drainage scheme prior to the occupation of the development. This revised wording would be entirely reasonable, and consistent with the requirements of the adjoining site, whereas the former is considered to be unreasonably onerous and restrictive

We trust that you will be able to deal with this application swiftly. If you require anything further, please do not hesitate to contact me.

Yours sincerely
HULME UPRIGHT MANNING

P GRATTON
PLANNING PARTNER