Planning applications team
Moorlands House
Stockwell Street, Leek
Staffordshire
ST13 6HQ
United Kingdom

Your ref: SMD/2017/0118

21st April 2017

Dear Sir/madam

Re: Mr Michael Higgs - Land West side of Top Road Biddulph Moor - Variation of condition 2 (repositioning of menage) on SMD/2013/0956

I write in connection with the above planning application on behalf of my client- Mrs Gregory of Copeland Meadow Farm. Mrs Gregory was sent notice of this application on 5th April 2017. However due to the council's error the application was not available to view on-line until 8th April 2017.

The application seeks to vary condition 2 of planning permission SMD/2013/0956.

This permission was for:

> *''Proposed change of agricultural use to use for keeping of horses and exercising horses, including the erection of a menage and American barn (stables) and an hardcore access road".*

Condition 2 of that approval read as follows:

2. *The development hereby approved shall be carried out in accordance with the following drawings and documents unless otherwise agreed in writing by the Local Planning Authority: Drawing no. 13/08/01; 13/08/02; 13/08/03; 13/08/04A.*

Reason:- To ensure that the development is carried out in accordance with the approved plans.

The applicant claims (on the application form) that the development was started on 1st October 2016 and has not yet been completed.

The application as a matter of fact seeks approval for the riding arena (manege) some 2.75 metres West of its approved position.

To begin with there is the legal matter of whether it is appropriate to deal with a development erected in a materially different position that its approved one. It would seem to me that condition 2 was in place to allow for very minor alterations that might take place rather than development actually taking place in a different location. There is a question as to whether the approval now sought is possible within the scope of the 2013 planning permission. This may be a matter that my client will need to return to. This is especially so in light of the fact that Bury and Hilton - who have advised Mrs Gregory on the technical flooding aspects of this development advise that the riding arena (manege) has in fact been constructed some 7.5 metres away from its 2013 approved location.

My client is Mrs Gregory who owns land and property adjacent to the application site at Copeland Meadow Farm. Since the unauthorised works have taken place my client's land has suffered from drainage problems directly resultant from these works. This has caused flooding on my client's land which they have sought to resolve in an informed, friendly and correct manner. They do not seek to upset any party but neither do they consider that the planning system should support and grant approval for development which is poorly undertaken and which has led to flooding.

Clearly matters of flooding are material planning considerations. The NPPG and NPPF are relevant to the determination of this application.

The National planning Practice Guidance advises the following:

> *Developers and applicants need to consider flood risk to and from the development site, and it is likely to be in their own best interests to do this as early as possible, in particular, to reduce the risk of subsequent, significant additional costs being incurred. The broad approach of assessing, avoiding, managing and mitigating flood risk should be followed.*
>
> *Paragraph: 029 Reference ID: 7-029-20140306*

and

What is a site-specific flood risk assessment?

A site-specific flood risk assessment is carried out by (or on behalf of) a developer to assess the flood risk to and from a development site. Where necessary (see footnote 5 in the National Planning Policy Framework), the assessment should accompany a planning application submitted to the local planning authority. The assessment should demonstrate to the decision-maker how flood risk will be managed now and over the development's lifetime, taking climate change into account, and with regard to the vulnerability of its users (see Table 2 – Flood Risk Vulnerability).

The objectives of a site-specific flood risk assessment are to establish:

- *whether a proposed development is likely to be affected by current or future flooding from any source;*
- *whether it will increase flood risk elsewhere;*
- *whether the measures proposed to deal with these effects and risks are appropriate;*
- *the evidence for the local planning authority to apply (if necessary) the Sequential Test, and;*
- *whether the development will be safe and pass the Exception Test, if applicable.*

See further information on the detail needed in a flood risk assessment.

Paragraph: 030 Reference ID: 7-030-20140306

The National Planning Policy Framework takes matters of flooding very seriously. At paragraph 103 the 'framework' states:

103. When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, and if required the Exception Test, it can be demonstrated that:

- *within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and*
- *development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.*

it is noted that the submitted application makes no reference to the flooding of third party land which their development has already caused. The applicant is however aware of the problem as indeed are the council's enforcement team. The application provides no evidence of existing site or surrounding land drainage matters nor any supporting evidence behind the drainage proposals set out with the submitted Design and Access statement. In respect of drainage the DAS says this in respect of the barn:

> *''……..100mm effluent drain connected to an underground 3000 litre underground effluent tank draining effluent from the from the manure storage and the American barn forecourt . The tank will be emptied periodical throughout the year.*

and

> *The 40metre x 20metre Ménage will be formed at the bottom of the field on the west boundary which will positioned 10 metres away from the west boundary and screened with a newly planted hawthorn hedge planted along the west boundary the full length of the ménage The ménage will have its own land drainage system the drainage trench will be lined with a geotextile membrane a 100mm land drain surrounded in clean drainage media. The land drain will discharge into a 9 metre soak away located at the top of the east boundary of the ménage. The proposed ménage will be finished in a silica sand laid on a geotextile membrane laid over 150mm compacted clean hardcore on top of another layer of geotextile membrane laid over the ménage drainage system.*

If this indeed what has been installed it plainly is not working and is not fit for purpose.

In respect of the management of rainwater run off my client's advisor Bury and Hilton recommended to the council on the 7th January 2017 that the following works be undertaken to alleviate the flooding problem caused by this development. They advise:

- *A 100mm perforated French drain by laid across the length of the site where it abuts the boundary of Copeland Meadow Farm. The level of the drain itself should set be lower than the adjacent farm land of Lower Copeland Farm and should accordingly be at least 1 metre deep and overfilled with 40 mm clean stone. The drain should be inspected at intervals during its construction by a competent and qualified drainage engineer.*

- *This French drain should be connected to a 150 mm drain pipe and directed to the nearest available ditch and again this should be inspected.*

The problem of land drainage is a material planning consideration. This submission has failed to show that the site can properly drained and as such it would lead to a continuation of the off site flooding of land it already causes. This is not in the public interest and is contrary to the provisions of the NPPF and is not acceptable in land use planning terms.

It is suggested either that the application be refused for this reason and enforcement proceedings instigated to remedy the breach of planning control or the application is withdrawn and a revised planning application made which provides for the following:

* Confirmation that the riding arena is in fact 10 metres away from its approved location and accordingly a wholly fresh application is sought.

* Ensure the description of the application is correct. This development is for a manege (riding arena) and not menage.

* The application includes an assessment by a competent land drainage engineer along with a land drainage scheme which is suitable and fit for purpose.

* The application includes plans, specification and details of the land drainage provision for both the riding arena and barn which is informed by the assessment of a competent land drainage engineer.

* The application also includes completion of all certificates of ownership for any third party land that any proposed drains will need to be laid across. Along with written confirmation from such parties that they support these works on their land.

My client is resolute in their desire to see this development completely properly and in a manner which does not lead to flooding of their land or any other parties land. To this end they continue to extend their offer of support to the applicant to assist with drainage by allowing water to discharge into the open ditch across their land.

Finally.

Would you be kind enough to confirm if you have consulted with the EA and Lead Local Flood Authority on this application? If you have not done so will you please explain why not.

Yours Sincerely

Gerald Willard

Chartered Town and Country Planner.
MRTPI

NB Please note that the application seeks approval for a menage. The Oxford English Dictionary explains that this is *''a domestic establishment, or its members collectively; a household, a home. In later use also: the parties involved in a romantic or sexual relationship regarded as forming a domestic establishment; the relationship itself.''* I do not believe this is being sought approval for though I might be wrong. Perhaps they seek instead approval for a manege or riding arena.