C H A R T E R E D S U R V E Y O R S & P L A N N I N G C O N S U L T A N T S

BURY ST EDMUNDS – EXETER – WOLVERHAMPTON – SCOTLAND

Application to Remove a Planning Condition Relating to the Planning Applications for a New Farm Complex off Mill Lane



Prepared for:-

Mr R Heath
Lee Farm
Mill Lane
Rushton Spencer
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SK11 0RS

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Prepared by:-

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Planning Approvals

On 16 June planning consent was granted for 4 planning applications relating to proposals to create a new farmstead on land associated with Lee Farm, Rushton Spencer.

The 4 applications and their planning references are listed below:

Dairy cattle building (and new farm access)	ref: 2017/0219
Livestock building	ref: 2017/0221
Manure store	ref: 2017/0222
Storage building (inc. dairy and office)	ref: 2017/0220

Each of the planning approvals had the same condition number 3, stating as follows:

Within two calendar months of the first use and occupation of the agricultural building hereby approved (also read in conjunction with planning applications SMD/2017/0220, SMD/2017/0221 and SMD/2017/0222), the buildings as identified to be demolished on plan PL01 received on 23/08/12 forming part of planning application SMD/2012/0567 / 12/00376/FUL shall be demolished in their entirety and completely removed from the site. The land on which they were sited shall then returned back to agricultural grassland.

Reason:-
In the interest of the visual amenities of the area

*The plan referred to in the condition is appended to this document.

Removal of the Planning Condition

The applications to be submitted are in relation to the removal of Condition 3 (as stated above) in respect of the all the aforementioned planning approvals.

This document is submitted with each application regarding the removal of the condition.

Quite simply it is considered that the imposition of the condition is not necessary, and not reasonable, in respect of all 4 planning approvals for the new farm buildings. Within the submission documents for the new buildings a passing reference was made to the existing farm complex, but the farm complex did not form part of the planning application. Within the delegated reports for the applications there is no reference or discussion regarding the existing buildings and the need for them to be removed.

Planning Practice Guidance

Below are extracts from the on-line Planning Practice Guidance.

What is the government's policy on the use of conditions in planning permissions?

Paragraph 203 of the National Planning Policy Framework states "Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions"

Paragraph 206 of the National Planning Policy Framework states “Planning conditions should only be imposed where they are:

1. necessary;
2. relevant to planning and;
3. to the development to be permitted;
4. enforceable;
5. precise and;
6. reasonable in all other respects.”

The policy requirement above is referred to in this guidance as the 6 tests.

Paragraph: 003 Reference ID: 21a-003-20140306

Revision date: 06 03 2014

How does the Local Planning Authority ensure that the 6 tests in paragraph 206 of the National Planning Policy Framework have been met?

Whether it is appropriate for the Local Planning Authority to impose a condition on a grant of planning permission will depend on the specifics of the case. Conditions should help to deliver development plan policy and accord with the requirements of the National Planning Policy Framework, including satisfying the 6 tests for conditions.

The 6 tests must all be satisfied each time a decision to grant planning permission subject to conditions is made. The tests are set out in the following table, alongside key considerations:

Paragraph: 004 Reference ID: 21a-004-20140306

Revision date: 06 03 2014

Should the local planning authority agree conditions with an applicant before imposing them?

It is best practice for a local planning authority to agree proposed conditions with an applicant before a decision is taken, and as early in the planning application process as possible. It is equally open to both the local planning authority and the applicant to initiate discussions about conditions. Agreeing conditions early is beneficial to all parties involved in the process. It can increase the certainty of what is proposed and how it is to be controlled, including highlighting any condition requirements that may impact on the implementation of the development.

A Planning Performance Agreement can also be used to set a timetable for when discussions about conditions should take place.

Paragraph: 019 Reference ID: 21a-019-20140306

Revision date: 06 03 2014

Summary and Conclusions

It is considered that the condition is not necessary in relation to the approved applications for the new farm buildings. The new farm complex is required due to the continuing difficulties of the historic farm complex in operating a dairy farming enterprise – which the applicant currently does and intends to do so from the new farm complex. However, the existing buildings will potentially still have a use, either as a low key agricultural activity (i.e. general storage) or another use subject to planning approval (e.g. equestrian).

At the present time the applicant is selling the farmhouse at Lee Farm and the existing farm complex in order to fund the new farm complex. There is no likelihood that the existing buildings will be used for livestock farming in the future, and such an activity is being discouraged by Unitied Utilities because the farmyard is within a 'Drinking Water Safeguard Zone' and there is an active campaign to minimize nitrates within the groundwater in the local area – to which agriculture is a contributing factor.

It should also be noted that the local planning authority didn't raise the matter of the planning condition before the decision notices were issued, and as noted above within the delegated reports for the applications there is no reference or discussion regarding the existing buildings and the need for them to be removed.

Given the points noted above it is considered that the condition is not 'reasonable in all other respects'.

To conclude, the condition is not seen to be 'necessary' and 'reasonable' and therefore the condition does not meet the '6 tests'. It is therefore expected that the application to remove the condition for all 4 applications will be accepted and approved.

Anthony Atkinson
July 2017

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