

Ms R. Simpkin
Staffordshire Moorlands District Council
Moorlands House
Stockwell Street
Leek
ST13 6HQ

25th June 2021

Submitted via Planning Portal
Planning Portal Ref: PP-09971132

Dear Ms Simpkin

**Application seeking a minor material amendment to Planning Permission SMD/2018/01180
Land to the East of Froghall Road and north of Ayr Road and Cheltenham Avenue, Cheadle**

I am pleased to submit this application seeking a minor material amendment (MMA) to vary plans approved under condition 2 of planning permission SMD/2018/01180 [the Planning Permission] on land to the east of Froghall Road and north of Ayr Road and Cheltenham Avenue, Cheadle [the Site].

This application has been submitted in parallel to a separate non-material amendment [NMA] application seeking the same proposed variation to condition 2 of the approved scheme. It is considered by the Company that the amendments proposed are non-material in nature and can be dealt with via the NMA application. In the event that the Council considers the changes to be minor in materiality then we would request the Council proceed in determining the application on the basis of this MMA application

Background and Proposed Amendment

Planning permission SMD/2018/01180 was granted on 1st December 2020 for 1) full permission for 125 dwellings and access to proposed primary school and 2) outline permission for up to 135 dwellings and a primary school with all matters reserved.

This application is made under section 73 of the Town and Country Planning Act 1990; and comprises this letter and the following documents:-

- Application form
- Site Location Plan (Ref: ARC/LP/01)
- Copy of Decision Notice SMD/2018/01180
- Proposed Planning Layout (Ref: ARCH/PL/PH1 Z8)
- Acoustic Fence Detail (Ref: PHNW-AF-02)
- External Works Sheet 1 of 2 (Ref: 40-05-01 Rev P2)
- External Works Sheet 2 of 2 (Ref: 40-06-02 Rev P3)

This minor material amendment application seeks to vary condition 2 to replace the Phase 1 Planning Layout Rev Z3 (Ref: ARCH/PL/PH1 Rev Z3) and to reflect minor amendments to the consented scheme. These amendments are set out in further detail below:-

1. The Gables, Donkey Lane – It is proposed that a 1.8m acoustic fence be erected around an existing property known as The Gables which is located to the north of the site and bound by Plots 5 and 6-8 respectively on its east and west boundary and removal of an extent of footpath along the southern boundary of The Gables on the proposed spine road through the site. This amendment will require pedestrians to cross the road to continue travel on foot through the site and therefore the amendment proposes additional crossing points and tactile paving.

This propose amendment is sought following discussions on-site between the Company's Engineering Manager Peter Holker, Staffordshire Moorlands officer Julie Howard and the property owner following concerns raised about the accuracy/clarity of the site boundary surrounding the property; such amendments being agreed between the parties. It was confirmed by Julie that such amendments could be dealt with via a non-material amendment application.

2. Layout Amendment (Plot 66/67 Double Garage) – It is proposed that the approved planning layout be amended to remove the double garage serving plots 66 and 67 and replace with 2 no. car parking spaces.

This amendment is sought following review of information submitted to discharge condition 24 of the Planning Permission which requires approval of site levels.

Details from submitted External Works drawings (Ref: 40-05-01 Rev P2 and 40-06-02 Rev P3) identify the requirement for retaining walls along the sites southern boundary to the rear of properties on Ness Grove, which may impact residential amenity.

Removal of the double garage and introducing split level gardens will allow for retaining walls to be reduced in height and residential amenity for existing residents significantly improved.

To affect these changes, it is proposed that the Phase 1 Planning Layout Rev 3 is replaced with Phase 1 Planning Layout (Ref: ARCH/PL/PH1 Rev Z8).

Planning Practice Guidance [PPG] sets out that an application can be made under section 73 of the Town and County Planning Act 1990 'to vary or remove conditions associated with a planning permission, acknowledging that one of the uses of section 73 application is to seek a minor amendment, where there is a relevant condition that can be varied' (Ref: 17a-15-20140306).

PPG advises that there is no statutory definition of what constitutes a 'minor material amendment' but it is likely to include any amendment where its scale and/or nature result in a development which is not substantially different from the one which has been approved (Ref: 17a-017-20140306).

A duplicate application has been submitted seeking the above amendments be determined under s96 of the Town and Country Planning Act, which concerns amendments which are considered to be non-material. It is the Company's assertion that the proposed amendments are non-material and therefore a s96 application is appropriate. In the event that the Local Planning Authority deems the proposed amendments to be 'minor' in materiality rather than non-material, having regard to PPG, then we would request that this MMA is determined and the NMA withdrawn.

S106

PPG is clear that a permission granted under s73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended.

Clause 2.22 of the s106 agreement dated 19th November 2020 secures the provisions of the s106 agreement against any subsequent S73 Variation.

The application fee of £262.00 has been sent under separate cover. I look forward to confirmation of receipt and validation of the application in due course.

If you require any further information, please do not hesitate to contact me.

Yours sincerely

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