

Mr. B. Hurst
Planning Enforcement
Staffordshire Moorlands District Council
Stockwell Street
Leek
Staffordshire
ST13 6HQ

4th January 2024

Dear Ben

VARIATION OF CONDITION 9 OF SMD/2023/0343 – BALL GREEN FARM, BROWN EDGE

On behalf of my client Mr. D. Clement I would be grateful if you would find enclosed a planning application seeking to vary the wording of Conditions 9 of the above planning consent.

The application follows on from the recent grant of consent to vary the wording of Conditions 3 and 11 of SMD/2021/0179, as approved under application SMD/2023/0343. In recommending that application for approval the following condition had been recommended to the Planning Committee:

“The existing access with the highway from Gorsey Bank at the northwestern end of the site shall only be used for the purposes of transporting sileage to the site on no more than a maximum of 30 days per calendar year. Within 6 months from the date of this permission a new farm gate shall be erected and installed across this access in a position that is to be set back a minimum of 10m from the carriageway edge”

In debating the merits of the case the Planning Committee opted to vary the wording of that condition in order to restrict the usage of the access to no more than 30 days to between the months of 1st May and 30th September. Those restrictions are duly set out within Condition 9 of SMD/2023/0343 which reads as follows:

“The existing access with the highway from Gorsey Bank at the northwestern end of the site shall only be used for the purposes of transporting sileage between the 1st May and 30th September on no more than a maximum of 30 days per calendar year. Within 6 months from the date of this permission a new farm gate shall be erected and installed

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across this access in a position that is to be set back a minimum of 10m from the carriageway edge”

The condition as worded causes issues for the applicant, in that if they have a need to buy in silage for their cattle over the winter prior, a scenario that can occur, the condition as imposed on SMD/2023/0343 would preclude them from doing so. The stated reason for imposing the condition is to limit the use of the access with a narrow residential lane opposite. Paragraph 111 of the National Planning Policy Framework confirms that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Neither Stoke City Council (Highways) nor Staffordshire County Council (Highways) objected to the originally proposed restriction of 30 days throughout the year, and therefore the restriction of the use of the access to between 1st May – 30th September is not necessary to make the development acceptable in planning terms and is unreasonable. The condition as currently worded is consequently held to fail the tests for conditions as set out in paragraph 56 of the National Planning Policy Framework.

The Local Authority is consequently requested to vary the wording of Condition 9 of SMD/2023/0343 to reflect the originally recommended condition of a maximum of 30 days per calendar year, without restricting the use to between 1st May – 30th September.

Yours sincerely



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