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6th February 2024

Staffordshire Moorlands District Council
The Planning Department
Moorlands House
Stockwell Street
Leek
ST13 6HQ

To whom it may concern

**Re Planning Applications SMD/2024/0028 (Ball Green Farm, Woodhouse Lane, Brown Edge)
Variation of condition 9 of SMD/2023/0343**

We yet again **strongly object** to the above amendment to an already amended condition which was approved by the planning committee on 16th November 2023, just 11 weeks ago.

The original planning application approval to which this refers (SMD/2021/0179) was for the development on green belt land immediately adjacent to the residential area of Heather View, Farm Lea and Gorsey Bank, Ball Green, described as "Retention of excavation works, erection of freestanding agricultural building for animal housing, extension to existing agricultural building to provide animal housing, erection of slurry tank and retention of vehicular access". This was the applicants third attempt at gaining planning permission, however it was not his first attempt at constructing it as he completely ignores any instruction, advice or guidance that is given by the Planning Committee, the Planning Department, Enforcement Officers, or the Coal Authority. We repeat that this is not merely a statement made by angry residents, this is factual, and evidence based and has been officially reported to planning enforcement on many occasions, including via Planning Officers, Planning Enforcement Officers, Environmental Health Officers, via a formal Stage 1 complaint, and a formal Stage 2 complaint (the Stage 2 was never answered by the Council!).

It is impossible to provide just feedback on why we object to the condition being amended yet again without stating the facts and providing evidence of what continues to be described as a living hell since the applicant purchased additional land adjacent to our homes. Instead, we will furnish you with the history and remind officers yet again as to why it is abundantly clear that this already amended condition must stand and instead officers should be handing this matter over to its enforcement team for the blatant disregard shown by the applicant since he first determined that he would, under any circumstance extend his business.

The applicant's first planning application was rejected by the Planning Committee on 7th June 2018 because of the detrimental impact it would have on those of us living in Heather View and Farm Lea. The Head of Planning was recorded as stating:

"we are concerned about the impact on their outlook and the amenity, potential for pollution, noise, light and general disturbance in an area where presently you have agricultural land".

Those sitting on the committee agreed and voted unanimously to reject the application.

Just 22 months later, on the 12th March 2020, we were back in front of the planning committee for a second application. Nothing had really changed apart from being submitted as 3 separate applications and so the same Head of Planning on this occasion was recorded as stating:

“the principle concern really arises from the proximity to the neighbouring dwellings to the North West and the impact that the scheme would have on their residential amenity. Members will have seen from the report that a previous application was refused on these grounds a couple of years ago and the applicant has attempted to address this by re-orientating and repositioning the building in order to reduce the impact on those properties and to move it further away, but having considered the application very carefully and on the advice of our professional environmental health officers we do, we do still have concerns that it would still be in very close proximity to those neighbouring dwellings and would result in an unacceptable harm to the living conditions of the occupiers of those properties, particularly with regard to overbearing impact having regards to the size of the building and general disturbance arising from odour, loss of outlook and the general activity around the building which of course given the nature of farming would be most likely early in the morning, late at night, as well as during the day, and obviously everything that goes with that in terms of noise and light pollution etc . So, whilst we are keen to be able to support an existing agricultural enterprise which is obviously seeking to expand in what can be difficult times for farming notwithstanding that we feel that in this particular case the concerns regarding residential needs amenity do outweigh the benefits, so we are recommending the application be refused on those grounds”.

Once again, led by the same Committee Chair, the planning committee voted to reject the three applications for the same reason – too big, too close to our homes and it would have a **severe detrimental impact on those living in Heather View and Farm Lea.**

We were therefore shocked that on 23rd April 2020, just a few weeks after this Committee meeting and clear refusal to see the applicant excavating the green belt behind our homes. This was not only against the instruction from the Planning Committee and advice from the Coal Authority but was during the initial phases of the worldwide pandemic. There were workers on site, not just family members, ignoring the “stay at home” and “essential worker only” instructions given by our government and policed by our already overstretched emergency services. **Again, this demonstrated the applicant had no regard for anyone other than himself.** This was all reported to Staffordshire Moorlands. By the 2nd May concrete was being brought onto site via the track behind us, again reported to SMDC. By the 30th June 2020, established hedgerows had been torn out, land levels manipulated beyond recognition, without any bore holes or testing (as instructed by the Coal Board,) and a vehicle track from Gorsey Bank highway (under Stoke on Trent City Councils ownership) down towards our homes and across the farm had already been constructed. After numerous repetitive complaints to SMDC we were advised in October 2020 that this work had been carried out in readiness for a new planning application! This was on the same site, in the same location that had been rejected twice before. Despite ongoing complaints to the planning department, we were repeatedly told that a planning application was to be submitted, and work continued onsite regardless! Finally, on the 17th March 2021, 6 months after we were assured by SMDC that the applicant was submitting an application, and almost a year of him starting it, an application was finally made public. By now we had continually reported the ongoing daily use of the unapproved track from June 2020 and were already subjected to exactly what the lead planning officer had stated twice before. As a result of the applicants’ action, we were suffering ***“unacceptable harm to our living conditions, disturbance from noise, light pollution, clouds of dust and invasion of privacy”.***

On the 15th July 2021 at the Planning Committee meeting, we once again raised our objections and made numerous statements to those Members present expressing our concerns of already being ignored by Officers and the applicant simply doing whatever he pleased. We raised concerns about the impact this development would have on our homes, the noise we would endure; the illumination levels; the odour and infestation likely; and the access in particular which means those using it invade our privacy as they overlook our homes.

However, despite these facts the Head of Planning had this time recommended approval with conditions attached. This gave approval for the retrospective planning required for the track and road access, together with the construction of a slightly smaller barn in the same location plus an extension of an existing barn. To say that we were stunned was an understatement. We had reported the abuse we had endured; we raised our concerns of the applicant's blatant disregard for authority, and we told the committee our complaints were being ignored by Staffordshire Moorlands.

The committee appeared to have understood our situation and based on the agent's own written submissions and obvious pre-talks with planning officers, the committee assured us that the numerous conditions attached to the application would ensure that we did not suffer from what we had endured already and were predicting would continue to happen. This is where the numerous conditions first began to be ignored, exactly as we had already said had happened and would continue to happen, the applicant simply did what he wanted to do.

With regards to this latest variation application, it needs to be remembered that the retrospective track was first approved as part of the entire package, not as a stand-alone application. The agent submitted an addendum statement just 2 days before the above committee, with regards to concerns raised by Stoke on Trent City Council Highways department. This was to secure the entire planning application. And at the time he clearly stated the following:

The existing access at the northwestern end of the site is only to be **used occasionally** when **transporting silage to the site**, which occurs twice / three times a year (2 days at a time) so **will only be used up to a maximum of 6 days per year**. The **applicant would be agreeable to the imposition of a planning condition to restrict the use of this access for transportation of silage**.

What followed that Committee imposing conditions? – **the applicant immediately breached them**. Within weeks he carried on using the track for every day farming activities, even having to be reminded that they should have installed a gate to the highway. After logging and formally reporting in the region of 50 known days where the track was used for non-silage activity over a 2-year period, bearing in mind we didn't capture every one that we witnessed, the applicant finally applied for variations to just 2 of the conditions. One being the 6 days use of the track that he had suggested in the first place! This blatant disregard has continued for 2 years already and the impact on us personally cannot be overlooked. So, for Condition 3 and Condition 11 we were once again having to defend our rights to the peaceful enjoyment of our amenities. The Committee met again on 16th November 2023 to discuss how they should proceed in terms of considering these 2 requested variations. While we still feel it is arguably unfair that the committee agreed to an amendment to variation 3, allowing the applicant to determine whatever colour roof tiles he decided should be used on the extension of his barn, rather than the green imposed by Committee, the Committee decided to agree with this amendment..."the path of least resistance" as quoted by the Committee.

For Condition 11, almost 20 minutes of debate were undertaken by Committee members, with a lot of negativities in terms of the applicant's proposal to increase the agreed use from 6 days per year

for silage use only (remembering this was his own proposal at the time the whole planning application was being considered) to **30 days per year just for silage collection use**. Comments from Committee members were clear:

- Councillor Flunder stating he was extremely concerned that the applicant was not already sticking to conditions imposed and what would ensure he would do in the future. He made comment that we were Stoke on Trent residents and that we were being ignored.
- Councillor Roberts supporting us as residents and objecting to the variations stating he'd had reports of lorries etc misusing the access.
- Councillor Hulme clearly stating that while foraging for silage can be problematic due to the weather, he believed from experience that just 2-3 days 3 times per year (just a total of 9 days) was absolutely fine and that 30 days was more than generous. He also proposed that as the silage season is from mid-May until October that date restrictions should also apply to the condition. He was also very clear the use be for silage only and not for slurry and a statement made "lots coming in and none going out".
- Members were very clear that what we had said would happen had happened and that this was about the **impact on our amenity** not just about the junction with the highway.
- Members were also very clear that the situation should be closely and regularly monitored.

On the **4th December 2023** the planning team finally made public the revised condition for the variation to Condition 11 outlined in their original decision letter of 16th July 2021. Now classed as Condition 9 it reads quite clearly and serves to remind the applicant that the use is **purely for the collection of silage** and for a **very specific window**, which is **deemed appropriate for the use of collection of silage**:

Condition 9

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 1st May and 30th September** on no more than a maximum of 30 days per calendar year. Within 6 months of the date of this permission a new farm gate shall be erected and installed across the access in a position that is to be set back a minimum of 10m from the carriageway edge

Despite the agent being present at the Committee on behalf of the applicant to hear this himself (and one would assume he repeated this to his customer immediately afterwards), on the 21st November 2023 we found ourselves writing yet again to SMDC, reporting a large articulated lorry and trailer which was photographed and videoed using the track on the Sunday evening the 19th, just 3 days after Members had made it abundantly clear at the Committee meeting that this was for the specific window and for silage collection only. This was finally responded to by Officers on the 4th December, remarkably this was the same day that the decision notice was put on the web site!! It states:

"I would guess such a sized vehicle would not be able to gain access to the site from the main entrance. After speaking with the farmers architect about this he suggested it would be for construction works. However the planning enforcement office is currently waiting for the decision notice for ref SMD/2023/0343 to be completed by the assigned officer with the necessary committee advice so the wording of the actual permission can be responded to."

We keep being assured that if we have need to raise a complaint it will be taken seriously. We have reported the use for non-silage collection consistently since the 20th April 2020. We have provided photographs, video evidence and offered to have cameras installed, but to no avail. The Planning Committee is being ignored and we are being ignored – the applicant simply carries on doing what he wants to do.

We now find ourselves with yet another planning application variation proposal, again to vary the condition that was given to the applicant just 2 months ago, simply because he doesn't like the fact that he has asked for 30 days use but the Committee have restricted that use for the silage collection season. We have to ask ourselves why would he want to have his 30 days over a wider season, when his current excuse is for the collection of silage? Well now he states:

*"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."*

It is quite laughable that the applicant has 2 silage clamps on site and as we write this objection one is at least still a third full, and yet to prove a point he has positioned an articulated size trailer at the rear of our home which has approximately a dozen bales of hay on it. Amazingly his actual farm entrance which is the main access at the top of Woodhouse Lane accommodates a multitude of vehicles entrance and egress. This includes tractors with trailers, tractors with slurry trailers, tractors with flatbed trailers (the one currently parked at the rear of my home) amongst others. It is therefore a little obtuse to be asking for a variation to this condition for the collection of anything, but especially claiming it to be for the collection of silage, for the full calendar year, when in essence he can use his main entrance, as he is supposed to do for all his other day to day farming activities. Surely the sensible and most compassionate answer, if he indeed did run out of silage, which appears highly unlikely given the volume still in the pits, is to have the bales brought in through his main entrance on a large trailer pulled by a tractor? Or even dropped in his own yard and moved using his own forklift equipment? Why keep trying to extend the use of a track, which was only agreed in the first instance for 6 days per year, if you intend to stick to the conditions, you yourself suggest should be imposed? The only answer is that he intends to use it for anything whenever he wants to and did not expect that his actions would be monitored.

As stated by previous committees ***"this development is too close to our homes and as a result it is causing irreversible impact on the enjoyment of our homes and property, nuisance and annoyance, invasion of our privacy, inappropriate noise and light pollution and the additional dust created is detrimental to our health"***.

We therefore strongly object to yet another variation of condition 9. Instead of agreeing to the change officers should be pursuing the owner for non-compliance, taking our complaints seriously just as the Chair and previous Chair of the Planning Committee assured us, they would be.

While we have so far focused on the most recent planning condition variation application where another amendment is sought, we feel it is extremely important to reference other conditions of

planning application SMD/2021/0343 which still have not been resolved. We provide information for officers once again:

Condition 5 (was Condition 7 on the original decision notice):

*There shall **be no artificial lighting incorporated into, installed or used at this application site that increases the pre-existing illuminance at the adjoining light sensitive locations when they are in operation.***

Reason:- To protect the local amenities of the local residents by reason of excess of illuminance

This condition has blatantly been disregarded by the applicant who installed a huge floodlight on the barn extension in January 2023. We have provided evidence to show there was nothing in situ before, clearly demonstrating an increase in pre-existing illuminance, have regularly since then submitted photographic evidence to show that our homes inside are so illuminated that we can cast our own shadows on our living rooms and bedroom walls from the intensity of the light. Not even to be able to sit in part of the room as the beam is blinding. Once again, we are told by officers that the owner has been challenged and claims to have adjusted it, but photographs submitted to planning officers show no change at all over the last 12 months have occurred. No one from planning has visited our homes or seen for themselves how distressing this is to us. This has a determinantal impact on our health and wellbeing – caused by the development being allowed and officers not acting on our complaints. To say there is bias in favour of the applicant in now an understatement.

Condition 6 (was 8)

We have already explained the inappropriate volume and noise pollution from the breach of condition 9. However, the planning application was precise in its own determination that the barns would be constructed with soundproofing, their construction was to be of four walls with just one facing the existing farm to have doors installed. These design principles were there to limit any noise escaping in our direction and the soundproofing to ensure the acoustical effect did not amplify any sound. This was a requirement to satisfy Environmental Health with regards to any impact on us from the development. **But the constructed barn does not conform.** It is entirely open on one side and we're afraid to say can only suggest there is an intention to extend it at some point, just as the second application sought to do – in phases! Secondly by the applicants own photographic evidence, published via Facebook and shared with planning officers the barns, which are clearly in use, do not contain any form of soundproofing. This is not our first time of raising this matter and needs to be remedied forthwith and should have been picked up already by planning officers on their site visits.

Condition 10 (was 12 and has been amended) reads:

Within the first available planting season following the date of this planning permission, the planting and landscaping detailed in the scheme shown on plan numbered 1702-AL07A that was submitted under application ref. DOC/2022/0085 shall be carried out and implemented. The landscaping and planting shall thereafter be retained and maintained, in accordance with the detail of the approved scheme, throughout the life of the development.

Reason:- To ensure a satisfactory appearance within the landscape setting and to provide some screening between the development and residential neighbours.

The barns have been in use since 21st March 2023, which was reported to Planning. This latest decision notice was provided on the 4th December 2023 and still at the time of writing no planting or landscaping has been carried out and we still have no screening in place. We would respectfully ask officers to remind the applicant that we are in the first planting season now, which usually ends at the end of March. We therefore expect that this will be in place by then to shield the

monstrosity that we are instead faced with while the applicant uses the land between our boundaries and the sheds as a “car park” and storage yard for all his vehicles, trailers, and scrap.

How right we continue to be when we stated any conditions would be ignored and how wrong were the two committees when members assured us on both occasions. Even the Head of Planning stated:

“At the committee meeting you were assured that development would be closely monitored, and future complaints made by yourselves would be taken seriously, investigated appropriately, and acted on where necessary.”

In summary it is abundantly clear that the previous approval of this development is already having a detrimental impact on our health and wellbeing and the infringement of our human right to the peaceful enjoyment of our homes and gardens.

Any second variation to this condition will only exacerbate the matter further and so we repeat again **we strongly object to yet another variation of Condition 9**. Given the numerous ongoing complaints with regards to the blatant disregard of most of the attached conditions, any approval to vary this condition would be a fundamental error of Staffordshire Moorlands in ensuring that it considers its duty of care to residents. With regards to the blatant disregard of the existing conditions we strongly suggest that instead it applies appropriate regards to the National Planning Policy Framework which highlights the relevance of enforcement action to uphold public trust in the planning system.

We respectfully ask that officers and Member support us on this and agree that any variation will not be approved, and that the development will be closely monitored forthwith.

Yours sincerely

TJ Kirton D Kirton

Mr and Mrs Kirton