

From:
To: [Planning \(SMDC\)](#)
Cc: [Alan Hulme](#); [Ryan Stubbs](#); [Colin Pearce](#); [Gareth Buckley](#); [info@theadmingerieuk.com](#); [Keith Flunder](#); [Paul McCormack](#); [Pete Wilkinson](#); [Sandra Peck](#); [Stephanie Akerman](#); [Steve Buckley](#)
Subject: Checkley Parish Council planning responses from meeting 20.02.2024
Date: 20 February 2024 21:44:36

SMDC No	Address	Proposed Application Details	Comments
SMD/2024/0031	Markden Homes, Land off Tenford Lane	Variation of Condition 1 relating to SMD/2021/0491 401054.75 340422.29	The Developers Agent within the letter accompanying the Application purports to be submitting this application in accordance with Section 73 of the Town and Country Planning Act 1990 to vary condition 1 on reserved matters consent SMD/2021/0491 by the identification of Minor amendments to the approved drawings. Further claiming that an application under Section 73 of the Town and Country Planning Act 1990 can be used to make a material amendment by varying or removing conditions associated with a planning permission and that there is no statutory limit on the degree of change permissible to conditions but the change must only relate to conditions and not to the operative part of the planning permission and also states that provisions relating to statutory consultation and publicity do not apply. The Application also seeks to make changes to Condition 10 (the provision of SuDS To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site) by the removal of one of the three drainage basins. Section 73 is a provision within the Town and Country Planning Act which allows for planning applications to be made for the variation or removal of a condition on an existing planning permission such as varying the list of approved plans to allow for amendments. Section 73 Cannot alter the extant permission's description of development or include a condition that seeks to alter the description and cannot be used to change the number of units in a scheme if the number of units is stated in the description, the change must only relate to conditions and not to the operative part, i.e. the description of the development granted, of the permission. The Applicant also seeks to increase the number of dwellings to 53 as opposed to the original 40 dwellings approved on the Outline Planning permission Application SMD/2016/0811. Further the Applicant also seeks to identify this Application as a revision to the previously refused Reserved Matters Application SMD/2023/0240 on the Outline Planning permission Application SMD/2016/0811 for the erection of 40 dwellings on Land Off, Tenford Lane, Tean. Checkley Parish Council are of the considered opinion that increasing the number of dwellings to 53 is contrary to a Section 73 Application as it clearly seeks to alter the extant permission's description of development and also seeks to change the number of units in the scheme as clearly stated in the description namely SMD/2016/0811 for the erection of 40 dwellings on Land Off, Tenford Lane, Tean. We also note that the Application form as submitted does not represent itself as a Section 73 Application contrary to the supporting statements. We are also concerned that any change to Condition 10 can have a deleterious effect on any Flood prevention measures. Checkley Parish Council are also of the considered opinion that this Application is a Material Amendment for major changes to the design and layout of the Development proposal which therefore goes beyond a Reserved Matters or Non Material Amendment or Section 73 variation and as such constitutes a Revised Planning Application which requires full resubmission and reconsideration. Checkley Parish Council therefore strongly object to This Application and would fully support the Planning Officer in Refusing this Application.