

DELEGATED DECISION REPORT

NMA/2024/0024
Valid 20/09/2024

FOLE DAIRY UTTOXETER
ROAD
FOLE
UTTOXETER

NON MATERIAL AMENDMENT
RELATING TO SMD/2018/0234

(NON MATERIAL AMENDMENTS)

MAIN ISSUES

There is no statutory definition of 'non-material'. The PPG confirms that this is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another. The LPA must be satisfied that the amendment sought is non-material in order to grant an application under section 96A of the Town and Country Planning Act 1990.

DESCRIPTION OF SITE

This brownfield site has planning permission for redevelopment 48 dwellings. Development has not yet commenced

PROPOSAL

The application seeks a non-material amendment to three drainage conditions on the outline consent, Conditions 13, 15 and 16. The applicant wishes to alter the triggers from pre commencement to the following - proposed text to be inserted in bold.

Submitted drawing 7796 – 174D referred to shows a small section of new internal road construction with kerbing leading from the unnamed side road to the east.

Condition 13

The development hereby permitted shall not commence **(with the exception of the area of new carriageway construction and kerbing shown on drawing number 7796 – 174D)** until drainage plans for the disposal of foul and surface water flows have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Condition 15

No development **(with the exception of the area of new carriageway construction and kerbing shown on drawing number 7796 – 174D)** shall take place until such time that the following has been submitted to and approved in writing by the Local Planning Authority:

1. A hydraulic model which has been re-run for the Broadgate Hall Brook and River Tean. The development proposals must be properly represented within this model. The approved Model should subsequently form the basis of the Site Specific Flood Risk Assessment required under Condition 16.

Condition 16

No development shall take place **(with the exception of the area of new carriageway construction and kerbing shown on drawing number 7796 – 174D)** until such time that a site specific Flood Risk Assessment has been submitted to and approved in writing by the Local Planning Authority which must include details of:

1. Existing and proposed site level plan to Ordnance Datum
2. Consideration of flood resilience measures up to the level of the 1 in 1000 year event
3. Maps showing all return periods and scenarios modelled
4. Any required floodplain compensation scheme

5. Evidence that the land use is appropriate for the flood zone
 6. More vulnerable parts of the site, such as the access routes or the dwellings, must be in lowest flood risk parts of the site where possible.
 7. Finished floor levels should be set at least 600mm above the highest of:
 - a. The modelled 1 in 100 year plus climate change level for the Broadgate Hall Brook
 - b. The modelled 1 in 100 year plus climate change level for the River Tean
 8. Provision of safe access and egress for future occupants of the site
 9. Address how any cars parked will be prevented from floating away during a flood event.
- The approved scheme shall be fully implemented before any of the dwellings hereby approved are occupied and subsequently maintained in accordance with the timing / phasing arrangements embodied within the approved scheme.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Staffordshire Moorlands Local plan (Sept 2020)

National Planning Policy Framework

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

CONSULTATIONS

Publicity

None required

Checkley Parish Council

This Application is for a Non material amendment of Conditions 13, 15 and 16 of SMD/2018/0234 which must be satisfied before work can commence and is still Under assessment by the case officer. This Application refers to the inclusion of the following: "with the exception of the area of new carriageway construction and kerbing shown on drawing number 7796- 174B" to Conditions 13, 15 and 16 SMD/2018/0234 is the definitive approved Outline Planning Permission and SMD/2021/0550 is the Submission of details of Reserved Matters in relation to SMD/2018/0234. The details of the reserved matters application must accord with the approved Outline Planning Permission including any conditions attached to the Planning permission. Conditions 13, 15 and 16 of SMD/2018/0234 (Outline Planning Permission) are different from Condition 13, 15 and 16 of SMD/2021/0550 (Reserved Matters). Checkley Parish Council are therefore of the opinion that this Application for a Non material amendment of Conditions 13, 15 and 16 referring to conditions imposed on the Outline Planning Permission only appears to be sound provided there are no local objections and it conforms with planning policies as defined in the Checkley Neighbourhood Development Plan (CNDP) and the Staffordshire Moorlands District Council Core Strategy and the National Planning Policy Framework.

OFFICER COMMENTS

Conditions 13, 15 and 16 all concern drainage and flood risk and all go to the heart of the permission.

Whilst applications to discharge these conditions have been submitted, discussions with the LLFA and the EA are still ongoing. The application expires on the 21st December 2024 (2 years from the date of approval of the last of the reserved matters) which leaves the developer in a potentially risky position hence the reason they are seeking a small amendment to the triggers to 13, 15 and 16 to avoid the possibility of the permission lapsing. This would not be

in the Council's interest either in circumstances of the current and significant housing under supply in the District.

The work specified in the submitted Drawing 7796 174B is deliberately limited in area and relates only to the construction of a short stretch of road and kerbing. This plan and proposed wording for the conditions has been discussed with the Case Officer prior to submission of this NMA and is a balance between ensuring that it is sufficient for the developer to be confident he has made a lawful start (not a consideration per se for this application) and ensuring only minimal work is done before the drainage details are finalised and approved. The developer had suggested that the trigger for these conditions could be amended to 'slab level' however that would not be acceptable as at that stage the drainage measures would already need to have been installed and the planning layout would be fixed.

The proposed wording is therefore considered to retain the control required over agreeing the detailed drainage details for the whole site. It is non material and is acceptable

It is recommended for these reasons that a Section 96A permission can be granted in this case

OFFICER RECOMMENDATION :Approve as an NMA

Case Officer: Jane Curley

Recommendation Date: 15th October 2024

X 

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council