



Paul Butler Associates

Planning, Development & Heritage Consultants

17 October 2025

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

Dear Sir / Madam

Application Reference: SMD/2022/0444
Land East of Cellarhead Substation: Erection of a Flexible Energy Facility
Discharge of Condition Application

On behalf of my client Ameresco, I am pleased to submit a discharge of condition application for the above site. In tandem with PBA, Ameresco are also being advised by CMS Cameron McKenna Nabarro Olswang LLP in respect of all outstanding planning matters.

The condition we are seeking approval for under this application is condition 15: Materials Management Plan ("MMP").

The schedule below outlines the information submitted in support of this application. Payment of the application fee has been made with the application submission.

Condition Number / Requirement	Submitted Information
Condition 15: Materials Management Plan	The following information is submitted to discharge this condition: - Materials Management Plan (RSK Reference 11986 MMP01 (08) October 2025. - Soil Movement: Volume Analysis (PBA) - Drainage Overview (Ameresco) - Landscape and Visual Statement (Stephenson Halliday)

The strategy for dealing with the excess soil from the construction of the BESS is detailed in the MMP: after re-use of as much of the excavated material as possible on site through the construction of the bunds and landscaping, the excess will be used to re profile land within the landowners' ownership.

The revised details submitted in respect of condition 15 are consistent with the principles and parameters established by the original planning permission and do not result in any material change to the approved development.

There is nothing stopping the Council from granting this application at the current time, prior to any permissions or consents that may be required for any offsite disposal or storage requirements being

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applied for or granted. The wording of Condition 15 does not regulate the ultimate destination of surplus material once it leaves the application site or control activities on third-party land. Regulation of any such offsite activities is also governed by separate, and adequate, regulatory regimes which could be enforced by the Council on that land where required, and such enforcement action would not render the Development unlawful or capable of ongoing implementation.

Therefore, a refusal based on the requirement for such consents to be in place prior to discharge of the condition would not be sustained on appeal, and would not be a valid reason in planning terms to prevent grant of this application. In any event, we have no reason to believe that such consents will not be forthcoming.

We note that the matters addressed by condition 15 are distinct from those that may be subject of any subsequent application in relation to the management or final destination of the extracted soil. The discharge of condition 15 will not prejudice the Council's ability to consider any future application on its own merits, nor will it fetter the Council's discretion in relation to any further consents that may be required. Rather, it will facilitate the timely commencement of development in accordance with the extant permission, while ensuring that all necessary controls and safeguards remain in place through the planning process.

In summary, the approach of discharging condition 15 at this stage is both procedurally sound and consistent with the objectives of the planning system, as it allows the lawful implementation of the existing consent while ensuring that any additional planning matters are addressed through the appropriate separate processes.

We respectfully note that the discharge of conditions is a standard part of the planning process, and that the Council retains full discretion over any subsequent applications. The courts have recognised, in cases such as *Hartley v Minister of Housing and Local Government* [1969] 3 All ER 1658 and *Whitley and Sons v Secretary of State for Wales* (1992) 64 P. & C. R. 296, that the planning system should be applied in a purposeful and fair manner, with the objective of securing compliance with planning objectives.

In the present case, the proactive step of seeking to discharge Condition 15 in advance of any further required consents is entirely consistent with this purposive approach. It demonstrates a clear commitment to ensuring that the development proceeds in accordance with the approved scheme and within the prescribed time limits, while also recognising that any additional planning matters (such as the management of extracted soil) will be addressed through the appropriate separate processes.

The approach does not undermine the Council's ability to exercise control over future consents but rather supports the effective and lawful implementation of the existing permission, in line with the principles established by the courts in *Hartley* and *Whitley*.

We have provided evidence with the application to demonstrate that the amount of soil that is required for management via on site and off site process is similar to that approved under SMD/2022/0444. This is contained in the Volume Analysis prepared by PBA and is therefore consistent with the parameters established by the original planning permission.

We would also draw attention to the statutory requirement for the local planning authority to determine an application to discharge conditions within the prescribed period and trust that this revised submission will be considered expeditiously.

We trust that the above information provides a clear and robust basis for the approval of the discharge of condition application, however should you have any questions please don't hesitate to get in contact.

Yours faithfully



Julian Austin BSc (Hons) MPLAN MRTPI
Director

c.c Ameresco Ltd
CMS Cameron McKenna Nabarro Olswang LLP