

**STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL
PLANNING APPLICATIONS COMMITTEE**

28th March 2024

Application No:	SMD/2024/0028	
Location	Land at Ball Green Farm, Woodhouse Lane, Brown Edge	
Proposal	Variation of condition 9 of SMD/2023/0343 - to permit the use of the access with Gorse Bank for a maximum of 30 days per calendar year (without the use being restricted to the summer months/1 st May to 30 th September).	
Applicant	Mr D Clement	
Agent	Rob Duncan Planning Consultancy Ltd	
Parish/Ward	Brown Edge	Date registered: 18 th January 2024
If you have a question about this report please contact: Benjamin Hurst tel: 07738506367 benjamin.hurst@staffsmoorlands.gov.uk		

REFERRAL

This application is presented to Planning Applications Committee because the application is locally contentious and involves significant development, and, applications for similar developments on this site have previously been determined by committee members.

1. SUMMARY OF RECOMMENDATION

APPROVE SUBJECT TO CONDITIONS

2. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

2.1 Ball Green Farm is a well-established dairy farm business comprising 273 acres and a further 120 acres rented. The site comprises part of a field located to the north east of Ball Green Farm and east of Gorse Bank, Brown Edge. The site is located within the SMDC boundary. However, the farmhouse itself together with neighbouring residential properties, within close proximity to the west / north west and Ball Green Assembly of God Church, are within the Stoke on Trent Council area.

2.2 The site is within the Green Belt and Countryside. Development granted by planning permission ref. SMD/2021/0179 has been built. Toward the north of the site, the detached animal housing, built in an excavated shelf of land to reduce its height profile, has been constructed with a dark green roof to comply with the condition at the request of Members. However, to the south, the extension to the pre-existing animal housing, within the main grouping of farm buildings, has been built with a grey cement fibre roof that matches adjacent farm buildings.

2.3 To the north west corner of the site, the pre-existing access with Gorsey Bank adjacent to the Church has a locked steel gate that is set back from the highway.

3. THE APPLICATION AND DESCRIPTION OF THE PROPOSAL

3.1 The planning application seeks to vary the wording and terms of Condition 9 of the recently granted varied planning permission SMD/2023/0343. The permission was granted in November 2023 to vary conditions of the previously granted planning permission for the farm development so that the grey roofing material used to extend the building could be retained; and the Gorsey Bank access could be used for up to 30 days per calendar year, rather than 6. In granting the varied permission the Council imposed the new condition 9 (Use of Vehicular Access).

3.2 At the request of Planning Committee, condition 9 was further varied to restrict the 30 days on which the Gorsey Bank farm access can be used to the summer months, 1st May to 30th September. Condition 9 written in full below:

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

Reason:- To limit the use of a highway access with a narrow residential lane opposite dwellings.

3.3 With this application the developer responds and seeks to vary that condition so that the 30 days that the access with Gorsey Bank can be used, for the purposes of transporting sileage to the site, can take place, as originally proposed, at any time throughout the calendar year and that some of the 30 day allowance could be used outside of those summer months.

3.4 Details of the application scheme can be viewed at:

<http://publicaccess.staffsmoorlands.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=177205>

4. RELEVANT PLANNING HISTORY

SMD/2023/0343 Variation of conditions to permit retention of grey roofing material and increased use of Gorsey Bank access. Approved.

SMD/2021/0179 Construction of vehicular access track; the erection of an animal housing building following preparatory excavation and land levelling work; extension of existing building to provide animal housing; and the erection of a slurry tank. Approved.

SMD/2019/0349- - A cubicle shed for the housing of the dairy herd - Phase 1 Resubmission of SMD/2018/0028 - Refused

SMD/2019/0331 - A cubicle shed for the housing of the dairy herd - Phase 3 Resubmission of SMD/2018/0029 - Refused.

SMD/2019/0320 - A cubicle shed for the housing of the dairy herd - Phase 2. Resubmission of SMD/2018/0027 – Refused.

SMD/2018/0027 - Proposed steel framed cubicle building Phase 2 200ft x 300ft Lean to – Refused 08/06/2018.

SMD/2018/0028 - A proposed steel framed cubicle building. Phase 1 200ft x 60ft main building – Refused 08/06/2018

SMD/2018/0029 – Proposed steel framed cubicle building. Phase 3 200ft x300ft lean to – Refused 08/06/2018.

5. PLANNING POLICIES RELEVANT TO THE DECISION

5.1 The development plan comprises the adopted Staffordshire Moorlands Local Plan Development Plan Document (September 2020) and supporting evidence documents.

Adopted Staffordshire Moorlands Local Plan - Sep 2020

5.2 The following Local Plan policies are relevant to the application:-

- SS1 Development Principles
- SS2 Settlement Hierarchy
- SS10 Other Rural Area
- DC1 Design Considerations to protect residential amenity
- DC3 Landscape Character
- T1 Development and sustainable transport
- NE1 Biodiversity and Ecology

Supplementary Planning Document (SPD)

Staffordshire Moorlands Design Guide 2018

Supporting Evidence Documents:

- Landscape and Settlement Character Assessment (2008)

National Planning Policy Framework (NPPF) revised.

6. CONSULTATIONS

Public response to consultation

6.1 Notification letters were sent to Neighbours. A site notice was posted on the 21st Feb 2024, all periods of consultation expire on the 13th March 2024.

6.2 Three local residents have objected to the proposal. The following points are made:

- The applicant has historically and repeatedly displayed poor conduct in terms of respecting and complying with planning control and existing conditions.
- The alternative access points are currently adequate to move slurry and silage during the winter months
- Use of the track already causes nuisance – invading privacy and causing noise and light pollution

Brown Edge Parish Council

6.3 Awaited

Staffordshire County Council Highways

Site Visit Conducted on: 24-Jul-2023

6.4 No objection to the variation of Condition 9. Condition 9 concerns the access off Gorsey Bank which appears to be within land under the control of Stoke on Trent City Council. The Staffordshire County Council Highway Authority did not recommend this condition for planning permission SMD/2023/0343.

Stoke on Trent City Council Highway Department

6.5 Stoke on Trent City Council did not object to the original draft of condition 9 as proposed by the applicant. They did not request the variation that restricted use of the access to the months between 1st May and 30th September.

SMDC Environmental Health

6.6 Awaited

7. OFFICER COMMENT AND PLANNING BALANCE

Main Issues

7.1 The key issues for consideration are whether the proposed variation to the existing permission would impose an unreasonable impact on the amenity enjoyed by nearby residential neighbours; or on the existing access and road network.

Variation of Condition 9 – Use of the Gorsey Bank Access

7.2 Condition 9 of the most recently granted varied permission currently restricts the use of the highway access with Gorsey Bank only to the purposes of transporting silage to the site on no more than a maximum of 30 days per calendar year, but additionally, it must only be used between the 1st May and 30th September, when the

access would be required in connection with silaging operations. The condition also required the erection of a farm gate and that is in place, set back from the highway. The reason for imposing the condition was to limit the use of a highway access with a narrow residential lane opposite dwellings. The application proposes to vary that condition to allow for the access to be used for a maximum of 30 days per calendar year, throughout the year, without being restricted to the summer months between the 1st May and 30th September.

7.3 The site has two existing accesses with the highway, the access onto Gorsey Bank to the northwest of the site, and one to the southwest onto Woodhouse Lane. The application does not propose any alterations to the existing access arrangements, which have been in situ and established for over a decade. The applicant submits that the condition as worded causes issues for their agricultural operations, in that if they have a need to buy in silage for their cattle over the winter period, a scenario that can occur, the condition as imposed on SMD/2023/0343 would preclude them from doing so and delivering it via the Gorsey Bank access.

7.4 In respect of this, a number of local objections have been received raising concerns about the applicant's historic conduct relative to planning controls and conditions and suggesting that the alternative access arrangements are available for the winter transport of silage.

7.5 In accordance with policies DC1 and T1 all new development should provide a safe and satisfactory access. 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.

7.6 The farm vehicles using the access have an elevated position and thus can observe oncoming traffic more readily than cars would, and the access is understood to have functioned without incident to date. A review of the CrashMap website furthermore confirms that there have been no recorded incidents along Gorsey Lane for the last 23 years. Neither Stoke City Council nor Staffordshire County Council Highway Authorities objected to the originally proposed restriction limiting the access use to 30 days throughout the calendar year and they did not suggest or recommend that the use of the access be further restricted to the summer months between 1st May and 30th September.

7.7 In respect of amenity impacts and the living conditions of near residential neighbours, in both iterations of the condition, the access can be used on 30 days of the year. However, under the terms of the condition as currently approved, those days would be concentrated during those summer months when residents are more likely to be outside enjoying their outdoor space, rather than having some of that use spread or spaced across the whole of the year. The current version of the condition does not appear to offer any particular advantage or benefit in these regards.

7.8 It is considered therefore, that the proposed variation of condition 9 is acceptable in planning terms and will not give rise to any conflict with policies DC1 and T1 of the Local Plan or the provisions of the National Planning Policy

Framework. The condition, in its current form, is not necessary to make the development acceptable in planning terms and cannot therefore be considered wholly reasonable. The condition as currently worded would consequently fail the tests for conditions as set out in paragraph 56 of the National Planning Policy Framework.

7.9 Therefore, taking the above into account, it is concluded that there would be no adverse, or 'severe', impact on the local road network; or harm to the amenity of residents, and the proposal thereby complies with the provisions of the NPPF and Local Plan policies. If this application were approved varied condition 9 of a new permission would therefore read:

9. The existing access with the highway from Gorse Bank at the northwestern end of the site shall only be used for the purposes of transporting silage 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.

Reason:- To limit the use of a highway access with a narrow residential lane opposite dwellings.

CONCLUSION / PLANNING BALANCE

7.10 The proposed variation would support and regularise the agricultural needs of the established farm enterprise, with benefit to the rural economy in those regards. The proposed variations therefore would not cause conflict with Policies SS10, DC1, or T1 of the Staffordshire Moorlands Local Plan or the terms of the NPPF. It is not considered that there would be any harm that would outweigh the benefits or indeed justify enforcement action, and the application is therefore recommended for approval.

8. RECOMMENDATION

A. That the grant of a differing planning permission be APPROVED for the development to include the proposed variations, subject to the following condition(s):

1. The development hereby permitted shall have begun before the expiration of three years from the 16th July 2021, the date of the existing permission SMD/2021/0179.

Reason:- To comply with Section 91(1) of the Town and Country Planning Act 1990 (As Amended)

2. The developments hereby permitted shall only be carried out, retained or completed in accordance with the drawn and written detail shown on the following approved plans referenced and numbered 1702-AL01B, 1702-AL02B, 1702-AL03B, 1702-AL04B, and 1702-AL05A that were submitted with the

application.

Reason:- For the avoidance of doubt and in the interests of proper planning, in accordance with the National Planning Policy Framework.

3. No fill material, used in connection with the above development or associated farm track, is to be imported to the site until it has been tested for contamination and assessed for its suitability for the proposed development. A methodology for demonstrating the material is suitable for its proposed use, should be submitted too and agreed by the Local Planning Authority prior to the material being imported.

Reason:- To ensure that the proposed development meets the requirements of the National Planning Policy Framework in that all potential risks to human health, controlled waters and wider environment are known and where necessary dealt with via remediation and or management of those risks.

4. In the event that contamination is found at any time when carrying out the approved development it must be reported in writing immediately to the Local Planning Authority. Development should not commence further until an initial investigation and risk assessment has been completed in accordance with a scheme to be agreed by the Local Planning Authority to assess the nature and extent of any contamination on the site. If the initial site risk assessment indicates that potential risks exists to any identified receptors, development shall not commence until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property, and the natural and historical environment has been prepared, and is subject to the approval in writing of the local planning authority. Following completion of measures identified in the approved remediation scheme and prior to bringing the development into first use, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason:- To ensure that the proposed development meets the requirements of the National Planning Policy Framework in that all potential risks to human health, controlled waters and wider environment are known and where necessary dealt with via remediation and or management of those risks.

5. 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

6. The rating level of sound emitted from any fixed plant and/or machinery associated with the development at the use hereby approved shall not exceed background sound levels by more than 5dB(A) between the hours of 0700 - 2300 (taken as a 15 minute LA90 at the nearest sound-sensitive premises) and

shall not exceed the background sound level between 2300 - 0700 (taken as a 15 minute LA90 at the nearest/any sound-sensitive premises). All measurements shall be made in accordance with the methodology of BS4142 (2014) (Methods for rating and assessing industrial and commercial sound) and/or its subsequent amendments. Where access to the nearest sound-sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound-sensitive property. Any deviations from the LA90 time interval stipulated above shall be agreed in writing with the local planning authority.

Reason:- To protect the amenities of nearby residents and comply with policies list specific policies.

7. No deliveries including movement of animals shall be received or dispatched from the site using the access road hereby permitted outside the hours of 07:00 and 19:00 nor at any time on Sundays, Bank or Public Holidays.

Reason:- To protect the amenity of the locality, especially for people living and/or working nearby.

8. The terms of the 'odour management plan' that was submitted on the 27th May 2021, shall at all times be observed and complied with throughout the life of the developments and for the duration of their use.

Reason:- To ensure that any concentration of odour in the vicinity is minimised and to protect the amenity of the locality, especially for people living and working nearby, and/or a nuisance is not caused.

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 silage 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.

Reason:- To limit the use of a highway access with a narrow residential lane opposite dwellings.

10. 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.

B. In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Development Services has delegated authority to do so in consultation with the Chairman of the Planning Applications Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.

