

**STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL
PLANNING APPLICATIONS COMMITTEE**

17th October 2024

Application No:	SMD/2024/0388	
Location	Springfields Farm, Hulme Lane, Werrington, ST3 5BH	
Proposal	Variation of Condition 17 of planning permission SMD/2024/0147 for Retrospective change of use from retail to mixed use of retail and cafe within Use Classes E(a) and E(b).	
Applicant	Mr C Taylor	
Agent	Rob Duncan Planning Consultancy Ltd	
Parish/ward	Werrington	Date registered: 22.08.2024
If you have a question about this report please contact: Chris Johnston tel: 01538 395400 ext. 4123 christopher.johnston@staffsmoorlands.gov.uk		

REFERRAL

The application is before committee as all previous applications relating to the change of use of the site to an ice cream/food sales with seating have also been decided at committee.

1. SUMMARY OF RECOMMENDATION

APPROVE

2. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

2.1 The site is in the countryside to the south of Werrington, about half a kilometre from the village development boundary and which is reached via country lanes from the village. It comprises part of a former farm, Springfield Farm, located on the east side of Hulme Lane. Within the site is a typical modern agricultural storage building (with a blockwork base and a mix of metal sheeting and timber cladding above), with a footprint of approx. 18 x 14 metres, which faces the road and the access, off the lane, which is also included in the red line application site and from where the building is clearly visible, being set back about 30m from the road. The building is now being used as an ice cream and hot food sales counter with seating areas/café use and there is also an outdoor seating area to the north-east of the building. An access drive leads from the access to the front of the building where there is a yard and there is also a track around the north side of the building leading to rear hard-standings to the east of the building and also further south of the building which are being used as parking areas for the new sales/café use. To the south of the building are other farm buildings between the front and rear yard areas. The farmhouse is a short distance to the south-west of the site and faces the lane. There is a field to the north and south of the buildings/application site edged in red, which is within the same ownership (the land edged in blue on the Location Plan).

2.2 To the north of the property to the other side of an adjacent field lies three detached dwellings next to the lane to the west. To the east of the field lies another farm accessed via a long farm track off the lane which runs to the north of the field. More open land lies to the south and east of Springfield Farm and also to the other side of Hulme Lane to the west. The site is in the Green Belt.

3. THE APPLICATION AND DESCRIPTION OF THE PROPOSAL

3.1 This is a Variation of Condition application seeking to vary Condition 17 of the full planning permission for the change of use of the site to an ice cream counter and café (SMD/2024/0147). The condition reads as follows:

17. The land edged in red and blue on the plans hereby approved shall not be used for the siting of play equipment, bouncy castles or other inflatables, catering vans, marquees, food and drink stalls or for the parking of vehicles outside of the areas shown for car parking in the approved Site Plan, for the lifetime of the approved development except for domestic play equipment or car parking within the residential curtilage of the dwelling within the land edged red which shall be used only for purposes incidental to the enjoyment of that dwellinghouse.

Reason:-

to protect the visual and residential amenities of the area.

3.2 The applicant wishes to vary this condition to allow, for no more than 28 days per calendar year, the field to the south of the farmhouse (shown hatched in green on an amended Location Plan), to be used for any purpose, including those outlined in the condition (e.g. siting of play equipment, overspill car parking etc.).

3.3 A Covering Letter been submitted which gives the reasons for the proposed variation as follows:

“The provisions of Condition 17 currently comprise a blanket removal of freedoms to utilise the land around the site for the temporary periods that would otherwise be allowed for under the provisions of Schedule 2, Part 4, Class B of the Town and Country Planning (General Permitted Development) (England) Order. Those provisions allow for the temporary use of land for up to 28 days per calendar year for any purpose (except for the holding of a market or for motor / motorcycle racing where the use is otherwise restricted to no more than 14 days). The proposed variation of condition will allow for the land to the south of the site to be used for up to 28 days for any purpose along with the provision of any moveable structure for the purposes of the permitted use of that land.”

“The applicant is nevertheless mindful of previous concerns raised by neighbouring residential occupiers, as well as those of the Local Authority’s Environmental Health Department, about noise and disturbance from the site, and consequently proposes to retain the restrictions imposed by Condition 17 on both the site itself and on the parcel of blue land to the north of the site. In doing so the proposed variation of condition will not give rise to any greater disturbance to residential amenity than that which is already permitted.”

“By contrast there are no residential occupiers to the south, the nearest being 330+ metres distant, so the variation of condition will not result in harm to residential amenity. The temporary use of the land for up to 28 days will furthermore not materially harm the character and visual amenity of the area, since the land will only be used for a temporary period (up to 28 days) and thereafter be clear of development for the remainder of the year.”

“The Government has clearly intended for land to be able to be used in any manner for a temporary period by virtue of the provisions of the Permitted Development Order, and we contend that the blanket removal of such freedoms via the current wording of Condition 17 is unnecessary and unreasonable.”

“We consequently propose that Condition 17 be varied to read as follows (varied text in bold):

“The land edged in red on the plan, along with the land to the north of the site edged in blue, on the plans hereby approved shall not be used for the siting of play equipment, bouncy castles or other inflatables, catering vans, marquees, food and drink stalls or for the parking of vehicles outside of the areas shown for car parking in the approved Site Plan, for the lifetime of the approved development except for domestic play equipment or car parking within the residential curtilage of the dwelling within the land edged red which shall be used only for purposes incidental to the enjoyment of that dwellinghouse. The land to the south of the site edged in blue on the approved plans may be used for 28 days per calendar year for any purpose (except for the holding of a market or for motor car or motorcycle racing) and provision of any moveable structure for the purposes associated with the permitted use of that land”.”

3.4 The application forms state that the development had started (i.e. the field to the south had become used for the purposes outlined in the condition) on 27th June 2024.

3.5 An amended site plan was received on 4th October 2024 to define the areas to the north and south of the application site with field to the north shown hatched brown and the field to the south, the area where this new proposal applies, hatched in green.

3.6 The application files including the drawings, report and other details of the proposal together with consultation and notification responses can be viewed on the Council website at:

4. RELEVANT PLANNING HISTORY

SMD/2023/0422: Conversion of former agricultural building to retail use and associated formation of parking area and vehicular access improvements (part retrospective). Approved. January 2024.

SMD/2024/0147: Change of use from retail to mixed use of retail and cafe within Use Classes E(a) and E(b). Approved. June 2024.

SMD/2024/0309: Retention of toilet block. Approved. September 2024.

SMD/2024/0310: Retrospective change of use of land to garden and retention of patio and steps. Pending.

5. PLANNING POLICIES RELEVANT TO THE DECISION

5.1 The Development Plan comprises:

Adopted Staffordshire Moorlands Local Plan - Sep 2020

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

- SS1 Development Principles
- SS10 Other Rural Areas Strategy
- E1 New Employment Development
- DC1 Design Considerations
- DC3 Landscape and Settlement Setting
- T1 Development and Sustainable Transport

National Planning Policy Framework (NPPF).- December 2021

Para 11: Presumption in Favour of Sustainable Development

Section 6: Building a Strong Competitive Economy

Section 7: Ensuring the Vitality of the Town Centre

Section 12: Achieving Well Designed Places

Section 13: Protecting Green Belt Land

6. CONSULTATIONS

6.1 A site notice was posted and displayed on Hulme Lane, a short distance to the north of the site access on 24.9.24 inviting comments within 21 days from the date it was posted. Letters were also sent out to adjacent residential properties and all senders of objection to previous application SMD/2024/0147, shortly after the new application was received and 21 days was given for comments in response.

Public response to consultation

6.2 An objection has been received from one local resident, raising the following points:

- Car parking has been taking place in the fields every single day from May to August and contravenes the 28 day allowance.
- Objections were changed to "Support" on the basis that the condition was applied.

- The growth of the business has had an impact on the Green Belt and the environment over the past two years and this proposal will further impact on this.
- Due to a number of breaches, the 28 day allowance will not be adhered to.

6.3 One further local resident has submitted a letter neither supporting or objecting but requiring further information about what is proposed and questioning the means of foul drainage for the recently approved toilet block.

Werrington Parish Council

6.4 Comments awaited.

SCC Highways Authority

6.5 Recommendation Summary: Acceptance

Site Visit Conducted on: 11-Sep-2024

NOTES TO PLANNING OFFICER

The site has a commercial use as an ice cream farm. Use of the land for various purposes would normally be permitted under PD rights. Use of part of the land for various purposes may attract additional visitors but this would be as part of the use of the ice cream farm use. The area of land may also be used intermittently for overflow parking, which should be encouraged, particularly in conjunction with any other use.

Access improvements were proposed and conditioned under SMD/2023/0422. This variation will have no effect on required access improvements.

Current records show that there was 1 personal injury collisions (PIC) on Hulme Lane within 215metres either side of the access in the previous five years. This prior to the use as an ice cream farm. Although all PICs are regrettable, the overall volume of collisions does not suggest there are any existing safety problems that would be exacerbated by the proposed development, particularly with the proposed visibility and access improvements.

SMDC Environmental Health

6.6 The Environmental Health Department have no objection to the application subject to retention of Environmental and Amenity Protection conditions.

7. OFFICER COMMENT AND PLANNING BALANCE

Introduction

7.1 The main issues with the proposal are as follows:

- The impact on the openness of the Green Belt.

- The impact on the character, appearance and amenities of the area.
- The impact on highway safety.

7.2 On approving previous applications for the change of use to an ice cream shop and café, a condition was applied to prevent the use of land surrounding the application site (within the same ownership) for associated uses such as for the stationing of food stalls, play equipment, bouncy castles, car parking and other uses as this has occurred on the field to the north leading up to applications for the ice cream shop and café. The reason for the condition was to protect the visual and residential amenities of the area, which were deemed to be affected by this particular unauthorised use of the field, which is visible from the road and also adjacent to residential properties to the north.

7.3 However, the Town and Country Planning (General Permitted Development) Order 2015 (as amended) i.e. “The GPDO”, in Schedule 2, Part 4, Class B allows under “permitted development” i.e. without planning permission, for the temporary use of land for up to 28 days per calendar year for any purpose (except for the holding of a market or for motor / motorcycle racing where the use is otherwise restricted to no more than 14 days). In applying that part of the legislation, this implies the government clearly does not consider that a use of land for any purpose not exceeding 28 days per year would lead to any form of harm.

7.4 The Council applied the condition which included removing the normal 28 day use of land for any purpose under permitted development in response to concerns and objections relating to impact on neighbouring properties to the north. The National Planning Policy Framework (NPPF) in para 54 states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do. The National Planning Policy Guidance (NPPG) also advises against such conditions.

7.5 Whilst the Council considers that the use of the field to the north of the site on a permanent basis or even a lengthy period of time for the purposes in which it was previously used (as outlined in the condition) is harmful to the amenities of nearby residents by way of noise and disturbance and harmful to the openness of the Green Belt and the rural character and appearance of the area, there is insufficient justification for a blanket removal which prevents the applicant from exercising his permitted development right to use the land for this purpose not exceeding 28 days per year.

7.6 The applicant, instead, wants to use the field to the south of the application site for the purposes outlined in the condition, for a maximum of 28 days per calendar year and due to the particular wording of the condition, must apply to vary the condition to allow this temporary use, which in any case, he would normally be allowed to do under permitted development under Part 4 of the GPDO.

The Impact on Residential Amenity

7.7 The field to the south has the benefit of being much further away from residential properties. The field to the north is directly adjacent to residential properties to the north. The field to the south is over 100m from those properties. To the south, the

field is over 350m from the nearest residential properties. It is not considered that the use of the field for any use including car parking, food stalls, bouncy castles or play equipment or any other use within the confines of permitted development under Part 4 of the GPDO for no more than 28 days per calendar year would harm the residential amenities of the area given the distances between the field and the nearest residential properties, which lie to the opposite side of the buildings including the ice cream shop and café, approved car park and outdoor seating areas. The Environmental Health Section does not consider the proposal would amount to significant harm to residential amenity and does not object. The proposal would not conflict with Policy DC1.

The Impact on the Green Belt

7.8 It is considered the use of the field for these purposes would impact on the openness of the Green Belt but that this harm is limited by the very temporary nature of the use. Part 4 of the GPDO permits temporary uses of all land for any purpose including land within the Green Belt. The proposal would not conflict with Policy SS10 or Section 13 of the NPPF.

The Impact on Visual Amenity

7.9 The site is well screened from the road by a hedgerow along the road and boundary vegetation would also provide screening from the nearest public footpaths which cross fields to the west of the road and also about 200m to the south-east. The use of the south field for the parking of cars and stationing of other objects for no more than 28 days per year is not considered to amount to significant harm to the character and appearance of the area. The proposal would not conflict with Policy DC1.

The impact on highway safety

7.10 The local highways authority does not consider the proposal, which could allow additional overspill parking for up to 28 days per year, would impact on highway safety. The proposal would not conflict with Policy DC1 or T1 of the Local Plan.

Other Points

7.11 One of the letters from a local resident points out that the field has been used daily throughout the Summer for parking and other uses i.e. exceeding 28 days. However, this would be a matter for Planning Enforcement. When the site was visited by the Case Officer on 24th September 2024, there were no cars or any other items or any development on the south field. The part of the field closest to the farmhouse is being used as part of the garden to the house and a patio area has been built there. This is an unauthorised change of use of part of the field (and unauthorised works) and is the subject of a separate retrospective full planning application that is pending (ref: SMD/2024/0310).

Conclusion and Planning Balance

7.12 Part 4 “Temporary Uses and Buildings” of the GPDO allows the use of land for

any purpose for no more than 28 days per calendar year under permitted development not requiring a planning application. Furthermore, the use of the south field for the purposes that are restricted in Condition 17 of the planning permission for the ice cream shop and café, for a period not exceeding 28 days per year, is not considered to harm the openness of the Green Belt, visual amenity, residential amenity or highway safety. The variation of condition 17 of the permission accordingly, is therefore deemed to be acceptable and therefore the application is recommended for approval.

8. RECOMMENDATION

A. That the application be APPROVED subject to the following conditions:

1. The development hereby approved shall be carried out in complete accordance with the submitted plans and specifications as follows: -

**Location Plan 1845 05 Revision A
Site Plan 1875 01 Revision A
Block Plan 1845 04 Revision A
Elevation and Layout Drawing 1845 12**

Reason:-

To ensure that the development is carried out in accordance with the approved plans, for clarity and the avoidance of doubt.

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that order with or without modification), no further development as specified in Part 3 (Changes of Use) shall be carried out without express planning permission first being obtained from the Local Planning Authority.

Reason:-

To enable the Local Planning Authority to control the development and so safeguard the character and amenities of the area.

3. The visibility splays shown on drawing 1845-03 Revision A Site Plan accompanying planning application SMD/2023/0422 shall be kept free of all obstructions to visibility over a height of 900 mm above the adjacent carriageway level for the lifetime of the development.

Reason:-

In the interests of highway safety.

4. Within the next available planting season following the date of the decision, new hedgerows shall be provided in exact accordance with drawing 1875-01 Rev A.

Reason:-

To ensure the appropriate landscape design and in the interests of the visual amenities of the area.

5. The implemented new hedgerows shall be subsequently properly maintained in accordance with good horticultural practice; any plants which are removed, die, become diseased or otherwise fail to establish within 5 years of planting shall be replaced during the next available planting season and the replacements themselves shall then be properly maintained.

Reason:-

To ensure the appropriate landscape design and in the interests of the visual amenities of the area.

6. The parking and turning areas shall be provided in accordance with drawing 1875-01 Rev A and shall thereafter be retained unobstructed as parking and turning areas for the life of the development.

Reason:-

In the interests of highway safety.

7. The additional overflow parking areas shall be provided in accordance with drawing 1875-01 Rev A and shall thereafter be retained unobstructed as parking and turning areas for the life of the development.

Reason:-

In the interests of highway safety.

8. The site shall not be open to customers outside of the following hours:

1000hrs to 1900hrs on any day

Reason:-

In the interests of the character and amenities of the area.

9. Any further development hereby permitted shall be undertaken in exact accordance with the Construction and Environmental Method Statement submitted with Discharge of Condition application DOC 2024 0006.

Reason:-

To protect the amenities of the area.

10. 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 shall not continue until an initial investigation and risk assessment has been completed in accordance with a scheme to be agreed in writing 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 recommence 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 submitted to and approved in writing by 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 approved remediation shall be submitted to and approved

in writing by 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.

11. No top soil or fill material is to be imported to the site until it has been tested for contamination and assessed for its suitability for the proposed development; a suitable methodology for testing this material shall be submitted to and agreed in writing by the Local Planning Authority prior to the soils being imported onto site. The methodology shall include the sampling frequency, testing schedules, criteria against which the analytical results will be assessed (as determined by the risk assessment) and source material information. The analysis shall then be carried out and validatory evidence submitted to and approved in writing to by 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.

12. Any floodlighting and external lighting at the site shall be installed in accordance with the details submitted with Discharge of Condition application DOC 2024 0006 for the lifetime of the development. The lighting incorporated into this site in connection with this application shall not increase the pre-existing illuminance or cause at the adjoining light sensitive locations (residential) when the light (s) is (are) in operation.

Reason:-

To protect the local amenities of the local residents by reason of excess of luminance.

13. The plant, machinery and any external ducting and flues approved under Discharge of Condition approval DOC 2024 0061 shall thereafter be installed in their entirety in exact accordance with DOC 2024 0061 for the lifetime of the development. The equipment shall be maintained in accordance with the manufacturer's instructions and operated at all times when cooking is being carried out unless otherwise agreed beforehand in writing with the local planning authority. The equipment shall be installed and in full working order to the satisfaction of the Local Planning Authority. (Any system installed must be by suitably qualified competent engineers and the canopy must meet all relevant Health and Safety requirements including the use of Gas Interlocks. The provision of a commissioning certificate issued by a Gas Safe registered engineer should be available for inspection.)

Reason:-

To ensure that unsatisfactory cooking odours outside the premises are minimised, in the interest of the amenity of occupiers of nearby properties

14. The machinery, plant or equipment including air condition and ventilation systems ("machinery") installed or operated in connection with the carrying

out of this permission shall be so enclosed and/or attenuated that the noise generated by the operation of the machinery shall not increase the background noise levels during day time expressed as LA90 [1hour] (day time 07:00-23:00 hours) and/or (b) LA90 [15 mins] during night time (night time 23:00-07:00 hours) at any adjoining noise sensitive locations or premises in separate occupation above that prevailing when the machinery is not operating. Noise measurements for the purpose of this condition shall be pursuant to BS 4142 (2014 +A1:2019)(Method for Rating and assessing industrial and commercial sound)

Reason:-

To safeguard the amenity of local residents and that of the surrounding area from noise disturbance.

15. No means for the amplification of voice or music shall be installed for use outside of the building in the application site or for onward external transmission. Any broadcast or background music played inside the building shall at all times be set at a level that will ensure that it is inaudible outside of the building.

Reason:-

To safeguard the amenity of local residents and that of the surrounding area from noise disturbance.

16. The hatched area in the approved Site Plan 1875 01 Revision A shown as "External Seating Area" shall be used for no other purpose other than as an outdoor seating area for customers of the approved new use of the building on site and all items used for this purpose in this area shall be moveable non-fixed items.

Reason:-

In the interests of the openness of the Green Belt and the visual amenities of the area.

17. The land edged in red on the Location Plan along with the land shown hatched in brown on amended Location Plan 1845 05 Revision B shall not be used for the siting of play equipment, bouncy castles or other inflatables, catering vans, marquees, food and drink stalls or for the parking of vehicles outside of the areas shown for car parking in the approved Site Plan for the lifetime of the approved development except for domestic play equipment or car parking within the residential curtilage of the dwelling within the land edged red which shall be used only for purposes incidental to the enjoyment of that dwellinghouse. The land to the south of the site shown hatched in green on amended Location Plan 1845 05 Revision B may be used for no more than 28 days per calendar year for any purpose (except for the holding of a market or for motor car or motorcycle racing) and for the provision of any moveable structure for the purposes associated with the permitted use of that land.

Reason:-

to protect the visual and residential amenities of the area.

18. Within one month of the date of this decision, bollards or stones shall be positioned on the area marked ""grass verge"" on the approved plans in

accordance with drawing 1875 01 Revision A and the details provided in the Discharge of Condition application DOC 2024 0006 in order to prevent parking on this area and shall be thereafter retained.

Reason:-

To prevent vehicle parking on the verge in the interests of highway safety.

19. Within the first available planting season from the date of this decision, a scheme of biodiversity enhancements and new/replacement grass areas shall be provided within the site in exact accordance with drawing 1875 01 Rev A.

Reason:-

In the interests of the ecological value of the area and to compensate for any harms caused by new areas of hardstanding over greenfield land.

20. There shall be no removal or alteration of dry-stone walls from the land edged red and blue as shown on the approved drawings, other than what is required in order to provide the visibility splays shown on drawing 1875 01 Rev A.

Reason:-

In the interests of the character and appearance of the area

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/in formatives/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.

