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Telephone
Email

Our ref.
Your ref. **2019/1244**

22nd May 2023

Dear Sir/Madam,

SECTION 73 – VARY CONDITON 3 OF PLANNING APPLICATION 2019/1244 – LAND SOUTH OF DARTON LANE, DARTON, BARNLSLEY

As you will be aware an application can be made under Section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission.

One of the uses of a Section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied.

Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended.

A decision notice describing the new permission is issued, setting out all of the conditions related to it. To assist with clarity decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged.

Further information about conditions can be found in the guidance for use of planning conditions.

As a section 73 application cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission. If the original permission was subject to a planning obligation then this may need to be the subject of a deed of variation.

There is no statutory definition of a ‘minor material amendment’ but it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved.

It is our intention to vary Condition 3 which currently reads: -

“The detailed design submitted with the reserved matters application(s) shall be in accordance with the parameters plan (ref:0708-EA-A-S2020630 Rev E) and shall include the widening of the existing footway along the site frontage to 2m..”

The Applicant would like the wording of Condition 3 to be varied to read as follows: -

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“The detailed design submitted with the reserved matters application(s) shall be in accordance with the parameters plan (ref: Parameter Plan 01) and shall include the widening of the existing footway along the site frontage to 2m.”

The revised parameters plans allows for an additional private drive to be taken from Darton Lane. This has been reviewed by the development team when preparing the Reserved Matters submission, and it has been deemed necessary to provide an additional private drive to improve the quality of design when responding to the constraints of the site. Furthermore, access has been reviewed by the Councils Highway Officer during the pre-application and deemed acceptable from a highways safety perspective.

It is hoped that these minor material amendments are acceptable and that we are able to move forward on this basis.

As always please feel free to give me a call if you need to discuss anything further.

I look forward to hearing from you.

Yours faithfully

