

Countryside Partnerships

1st February 2023

By Email: jane.curley@staffs Moorlands.gov.uk
Planning@staffs Moorlands.gov.uk

Dear Jane

Notification of Deemed Discharge – For application Ref: SMD/2021/0694 Relating to Conditions 11, 12, 18, 19, 20, & 30.

Please take this letter as notification of deemed discharge of the condition referred to above associated with full planning approval SMD/2021/0694.

The relevant Discharge of Condition application:

- DOC/2022/0077

An acknowledgement letter and subsequent Validation letter was received for the submitted application. The statutory expiry date for the submitted application was 17th January 2023. An extension of time has not been agreed and whilst additional details have been sought in respect of conditions 5, 7, 22, 32 and the relevant details have been submitted a notice of decision nor comments requesting amendments has not been received for Conditions 11, 12, 18, 19, 20, & 30 noted above.

According to the regulations under Part 5 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, a deemed discharge of condition notice can be submitted to the Council under such circumstances. This letter comprises the required deemed discharge notice.

- Article 29 (2) states that a deemed discharge notice may not be given unless:

- (a) At least 6 weeks have elapsed beginning with the day immediately following that on which the application under article 27 is received by the local planning authority, or;
- (b) Such shorter period as may be agreed in writing between the applicant and the local planning authority for serving a deemed discharge notice has elapsed.

This deemed discharge notice meets criteria (a) given that more than 6 weeks have passed since the day after the LPA received the application for planning permission under article 27 of the regulations. Criterion (b) does not apply as a shorter period was not agreed.

- Article 29 (3) states that the deemed discharge notice must:

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(a) Provide details of the application submitted under article 27 and identify the planning condition to which is related.

The condition to which this deemed discharge notice relates is conditions 11, 12, 18, 19, 20, & 30 attached to full planning permission granted under SMD/2021/0694. Criteria (a) is therefore met.

(b) Where the period referred to in article 27 has elapsed, confirm that no appeal has been made under section 78 of the 1990 Act (b).

I confirm that no appeal has been made in relation to the discharge of condition application ref: SMD/2021/0694.

(c) Specify the date on which deemed discharge is to take effect.

Deemed discharge will take effect on 16th February 2023

● Part 5, Article 29 (4) states that the date specified under paragraph 3(c) above must be no earlier than:

(a) The date the period referred to in article 27 elapses.

This notice is compliant in this regard.

(b) 14 days after the day immediately following that on which the deemed discharge notice is received by the local planning authority.

The date of 16th February 2023 is no earlier than 14 days after the day immediately following the day on which the deemed discharge notice is received by the local planning authority (being 1st February 2023).

Part 5, Article 27

● Part 5, Article 27 (1) (a) states that an application for any approval required by a condition must be made in writing to the local planning authority and must give sufficient information to enable the authority to identify the planning permission in respect of which it is made.

● Part 5, Article 27 (1) (b) states that the application must include such particulars, and be accompanied by such plans and drawings, as are necessary to deal with the application.

The application for approval of Conditions 11, 12, 18, 19, 20, & 30 of the Full planning approval clearly identified the conditions to which it related, and included the sufficient details required for the condition to be discharged. This part is therefore complied with under the regulations.

● Article 27 (2) states that the authority must give notice to the applicant of their decision on the application within a period of 8 weeks beginning with the day immediately following that on which the application is received by the authority, or such longer period as may be agreed by the applicant and the authority in writing.

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An extension to the determination period was not agreed and this date has now elapsed. This part is therefore complied with under the regulations.

- Article 27 (3) states that paragraphs 1 and 2 above do not apply if an application for approval of reserved matters or an application under Schedule 2 to the Permitted Development Order (b).

This deemed discharge notice relates to approval of a discharge of condition, therefore this part of the regulations does not apply.

Part 5, Article 28

- Article 28 (1) states that subject to article 30, a planning condition to which section 74A(2) of the 1990 Act applies is deemed discharged with effect from the date provided for paragraph (2) where –

(a) The applicant has applied to the local planning authority under article 27.

This has been satisfied under the regulations as set out earlier in this letter.

(b) The applicant has given notice, in relation to that condition, in accordance with article 29.

This has been satisfied under the regulations as set out earlier in this letter.

(c) The period for the authority to give notice to the applicant of their decision on the application has elapsed without the authority giving notice to the applicant of their decision.

A stated earlier in this letter, no extension of time was agreed, and the decision date has now lapsed without the applicant receiving notice from the authority of their decision.

- Article 28 (2) states that the deemed discharge takes effect on the date specified in the notice given under article 29.

A stated above, the date on which this deemed discharge will take effect is 16th February 2023.

Part 5, Article 30 (Exemptions)

- Article 30 states that a deemed discharge does not apply to a condition attached to the grant of planning permission where the condition falls within the exemptions listed in Schedule 6 of the regulations.

Details required by Conditions 11, 12, 18, 19, 20, & 30 are not stated as an exemption under Schedule 6 of the regulations. This notice is therefore compliant in this regard.

Conclusions

With regards to the detail set out in this notice, conditions 11, 12, 18, 19, 20, & 30 of full planning approval SMD/2021/0694 will be deemed discharged on the 16th February 2023 and a full refund

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should be made within 10 days of this date. The account details will be provided under separate cover.

Please contact me on the details below should you wish to discuss any matters.

Yours faithfully

Rachel Bolger
Senior Planning Manager
Countryside Partnerships, West Midlands