Julian Townsend
Executive Director (Operations)
Development Management

Town Hall
Ripley
Derbyshire DE5 3BT
Tel: 01773 570222
Fax: 01773 841523
Email: enquiry@ambervalley.gov.uk
Web: www.ambervalley.gov.uk

Mr Simon & Amelia Marles
16A Town Street
Duffield
Belper
Derbyshire
DE56 4EH

TOWN AND COUNTRY PLANNING ACT 1990

In pursuance of the powers vested in the Amber Valley Borough Council under the above Act and Orders and taking into account Government guidance and policy and the saved policies of the Adopted Amber Valley Borough Local Plan 2006, and with reference to your application (**Office Code: AVA/2020/0539**) which was valid on the 10 July 2020 for permission for **Change of use of ground floor and outdoor patio areas from domestic use (C3) to Use Class E (shop and cafe), with ancillary Class F.1 (tuition groups) at 16A Town Street Duffield Belper**

In the manner described in the application and shown on the accompanying plan(s) and drawing(s) **NOTICE IS HEREBY GIVEN** that permission for the proposed development is **GRANTED subject to the following conditions:**

Conditions/Reasons

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

   Reason: To comply with the requirements of Section 91(1) of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall be carried out in accordance with the details contained in the submitted plans and documents listed below:

   - Site Location Plan;
   - Proposed Block Plan;
   - Proposed front elevation; and,
   - Proposed internal layout plan.

Date : 24 September 2020 Signed

Julian Townsend
Executive Director (Operations)

Reason: In order to define the permission.

3. Notwithstanding the approved plans, this permission does not relate to the signage shown on the proposed elevation drawing.

   Reason: To define the terms of this permission and for the avoidance of any doubt and in the interests of the visual amenity and character of the locality in accordance with saved policies LS3, EN27 and EN29 of the Adopted Amber Valley Borough Local Plan 2006.

4. The uses hereby permitted (E and F1), including any associated deliveries to or from the premises, shall be carried out within the application site only between 08:00 and 22:00 hours on Mondays to Saturdays; and between 10:00 and 17:00 hours on Sundays. All outdoor seating/socialising areas shall be available for the use of customers only between 10:00 and 18:00 hours on Mondays to Saturdays; and during the permitted opening hours on Sundays.

   Reason: To protect the amenity of the residents of adjacent properties in accordance with saved policy EN16 of the Adopted Amber Valley Borough Local Plan 2006.

5. Notwithstanding the provisions contained within the Town and Country Planning (Use Classes) Order 1987 (or any Order revoking and re-enacting that Order) this permission shall relate to the use of the premises only for the purposes defined in the application and for no other purpose.

   Reason: To enable the Local Planning Authority to maintain a satisfactory control of the activities involved in accordance with saved policy EN16 of the Adopted Amber Valley Borough Local Plan 2006.

6. The use hereby permitted shall be carried only by the applicants (Mr Simon and Mrs Amelia Marles).

   Reason: To enable the Local Planning Authority to assess the impact of the proposed development in accordance with saved policy EN16 of the Adopted Amber Valley Borough Local Plan 2006.

7. No externally mounted plant, machinery or equipment shall be installed before the Local Planning Authority has approved, in writing, detailed information regarding its

Date : 24 September 2020 Signed

Julian Townsend
Executive Director (Operations)

acoustic performance, operating hours and location. If required by the Local Planning Authority following installation, an assessment of noise emissions in-situ shall be submitted to, and approved in writing by, the Local Planning Authority. If required by the Local Planning Authority, such plant shall be enclosed with sound-insulating material and/or mounted in a way which will minimise the emission or transmission of sound in accordance with a scheme to be approved in writing by the Local Planning Authority.

Reason: To protect the amenity of the residents of adjacent properties in accordance with saved policy EN16 of the Adopted Amber Valley Borough Local Plan 2006.

8. No electrically amplified sound, including music and voices, is permitted outside the building at any time; for the avoidance of doubt, this includes any speakers located on the outside of the building or directed outwards from windows or doors. No electrically amplified live music is permitted indoors at any time.

Reason: To protect the amenity of the residents of adjacent properties in accordance with saved policy EN16 of the Adopted Amber Valley Borough Local Plan 2006.

9. Before the use hereby permitted begins, equipment to control the emission of fumes and smell from the kitchen shall be installed. The proposed location of the kitchen shall be approved in writing by the Local Planning Authority before use commences. The extraction system shall be appropriate to the nature and quantity of cooking done and sufficient to control the emission of fumes and smell from the premises such that the amenity of nearby premises is not materially affected and shall be used whenever cooking is taking place. The equipment shall be installed, operated and maintained in accordance with the manufacturer's instructions and retained for so long as the use continues. Records documenting the level of maintenance and servicing shall be available for inspection for at least the preceding 2 years.

Reason: To protect the amenity of the residents of adjacent properties in accordance with saved policy EN16 of the Adopted Amber Valley Borough Local Plan 2006.

Date : 24 September 2020 Signed



Julian Townsend
Executive Director (Operations)

Notes

Attention is drawn to the attached notes:

1 The Environment Agency advise that the site owners register with the Environment Agency's free flood warning service to receive advance notification of possible flood events

2 with regards to Condition 8, the applicant is advised that in general, the adequacy of a kitchen cooking extraction/ventilation system for dealing with cooking odours will depend on the nature and quantity of cooking done and it must ensure that:
- the standard of odour suppression is sufficient to ensure that no significant odour is detectable at any odour-sensitive premises;
- the extracted air is discharged at such a height, position and direction as to ensure the adequate dilution and dispersal of cooking odours;
- the airflow from any chimney is unimpeded; i.e. the final opening of the chimney must discharge vertically upwards and must not be fitted with any restriction such as a plate, cap or cowl at the final opening. An accelerator cone or similar device could be included to increase the exit velocity of emissions; and
- noise to the environment is controlled by taking acoustic considerations into account within duct, fan and termination design.
The proposed system should be risk assessed and designed in accordance with EMAQ's (formerly DEFRA's) best practice document: 'Control of odour and noise from commercial kitchen exhaust systems' (05 September 2018). Appendix 2 provides guidance on the information required to support planning applications for commercial kitchens; Appendix 3 provides guidance on risk assessing odour; and Appendix 4 provides guidance on factors to take into account in noise assessment.

In general, the kitchen cooking extraction/ventilation system should comprise:
- Supply air intake;
- Ductwork (properly sized extract and supply ductwork to minimise air noise and resistance to airflow, with balanced spigot connections to distribute air along the length of the canopy);
- Grease and particle separation/filtration;
- Odour control component (e.g. carbon filtration module);
- Flexible connections to isolate fan noise and transmission through the duct;
- Extract fan (preferably low noise centrifugal) positioned so as to keep all internal ductwork under negative pressure. Consider the position of the fan and odour control filters for future maintenance. The type of fan used may require the installation of a

Date : 24 September 2020 Signed

Julian Townsend
Executive Director (Operations)

silencer positioned in the ductwork to reduce the noise level at the extract point and anti-vibration mounts may also be needed;
- A high-velocity discharge cowl positioned as high as 1m above the roof ridge, with a suitable drain point.

Particular care is needed in a Conservation Area or for a Listed Building, as the requirements for such buildings may conflict with environmental health requirements for the adequate dispersal/suppression of cooking odours. Wherever possible, the kitchen extraction system should utilise an existing chimney.

3 The applicant is advised that where a building is sub-divided and attached to / below noise-sensitive premises, it is important to ensure that party walls provide reasonable resistance to the transmission of airborne sound via walls, floors and stairs, and to impact sound via floors and stairs, to minimise the impact of noise on any adjoining properties where this could result in future enforcement action in response to complaint and the substantial cost of remedying inadequate sound insulation.

Noisy kitchen equipment/activities, such as cooking extraction systems and refrigeration/chiller units, should not be located on or near to party walls/ceilings/structures to minimise the transmission of noise.

The development should also comply with the requirements of Approved Document E: Resistance to the passage of sound in Schedule 1 to the Building Regulations 2000 (as amended) and the applicant is advised to contact Derbyshire Building Control Partnership for advice on this matter. It is important to note that Building Regulations may not apply in all cases and that compliance with the Regulations may not be sufficient to prevent noise complaints, so specialist acoustic advice should also be sought.

Reasons for Granting Permission

In granting permission for this development the Borough Council has taken into account all material planning considerations arising from the views of statutory and other consultees and public representations about the application, Government guidance as detailed in the National Planning Policy Framework and the saved policies of the Adopted Amber Valley Borough Local Plan 2006:

LS1 - Sustainability criteria

Date : 24 September 2020 Signed

Julian Townsend
Executive Director (Operations)

LS3 - Design
TC6 - Local shopping facilities
EN15 - Development and Flood Risk
EN16 - Pollution
EN24 - Listed Buildings
EN27 - Conservation Areas
EN29 - Derwent Valley Mills World Heritage Site

In detail:

The National Planning Policy Framework (NPPF) is a material consideration in planning decisions. In accordance with Paragraph 38 of the NPPF the local planning authority has approached the decision making process in a positive way to foster the delivery of sustainable development and has worked proactively with the applicant/agent to secure a development to improve the economic, social and environmental conditions of the area.

The development complies with the provisions of the development plan for the locality and raises no unresolved issues in relation to the location of the site, privacy, amenity, character and design, landscape or heritage features and highway safety.

Date : 24 September 2020 Signed



Julian Townsend
Executive Director (Operations)

NOTES

1. **If the applicant is aggrieved by the decision of the Local Planning Authority to refuse planning permission or approval for the proposed development or to grant permission or approval subject to conditions, he may appeal to the Secretary of State for the Environment in accordance with Section 78/79 of the Town and Country Planning Act 1990, within six months of the date of this notice. The Secretary of State has power to allow a longer period for the giving of a notice but will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission of the proposed development could not have been granted by the Local Planning Authority or could not have been so granted otherwise that subject to the conditions imposed on them, having regard to the statutory requirements, to the provision of the development order, and to any directions given under the order.**
2. **Cadent Gas own and operate the gas infrastructure within the area of your development. Contact Cadent's Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to. Email plantprotection@cadentgas.com. Alternatively you can register on www.beforeyoudig.nationalgrid.com**
3. **If permission to develop land is refused or granted subject to conditions, whether by the Local Planning Authority or by the Secretary of State for the Environment, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the Council of the County/District in which the land is situated, a purchase notice requiring that council to purchase his interests in the land in accordance with the provisions of Section 180 of the Town and Country Planning Act 1990.**
4. **In certain circumstances a claim may be made against the Local Planning Authority for compensation where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Sections 137 and 138 of the Town and Country Planning Act 1990.**
5. **This permission relates to planning controls only. Any other statutory consent necessary including submission under the building regulations must be obtained from the appropriate Authority.**
6. **If it is intended to give notice of appeal in accordance with Paragraph 1 above, this should be done on the appropriate form obtainable from:-**

   The Planning Inspectorate
   3/23 Hawk Wing, Temple Quay House, 2 The Square Temple Quay Bristol BS1 6PN
   (Tel. No. 0117 372 8000) www.planning-inspectorate.gov.uk

7. **If the condition of consent or reasons for refusal, make reference to a Division of the Department, the appellant may, if he so wishes, require the attendance of a representative from the Department by notification to the Local Planning Authority. Such a representative would not be liable to cross-examination on questions of departmental policy, but only on matters of fact and expert opinion in relation to the appeal site.**
8. **Where a vehicle is habitually drive across a grass verge or kerbed footway to and from premises adjoining a highway, the occupier of the premises may after being given due notice by the appropriate authority, be required to pay the cost of construction of a carriage crossing or the strengthening of a footway, as the authority considers it necessary, or may be required to comply with conditions imposed by the authority.**
9. **In the case of building or premises to which the public are to be admitted whether on payment or otherwise, attention is drawn to Sections 4 and 7 of the Chronically Sick and Disabled Persons Act 1970 and the associated Code of Practice (BS5810:1979). In the case of premises to which the Offices, Shops and Railway Premises Act 1963 or the Factories Act 1962 applies, attention is drawn to Sections 7 and 8A of the Chronically Sick and Disabled Persons Act and to the same code of practice. In the case of Educational Buildings, attention is drawn to Sections 7 and 8 of the Chronically Sick and Disabled Persons Act 1978 and to the Design Note 18 "Access for the Physically Disabled Educational Buildings".**
10. **If the development site is crossed by an electric line or is within 15 metres (50ft) of the nearest part of a line (measure horizontally along the ground) or if there is reason to believe that it may be crossed by an underground electric cable, the applicant should contact the Electricity Board to ascertain if and what special safety precautions are necessary.**
11. **The grant of planning permission does not entitle developers to obstruct a public right of way. Development on so far as it affects a right of way, should not be started, and the right of way should be kept open for public use, until the necessary order under Section 247 and 257 of the Town and Country Planning Act 1990 for the diversion of extinguishment of the right of way has been made and confirmed.**