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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/2020/0793**) which was valid on the 22 September 2020 for permission for **Proposed facade upgrade and new pitched roof. Proposed outdoor first floor wrap around balcony and terrace and ground floor patio area. Change of use of part ground and first floor to A3 / A5 cafe. Change of use of storage area to ice cream production room. Extension of lobby area and new disabled access toilet at Agate House Heanor Gate Heanor**

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 hereby permitted shall be carried out only in accordance with the details and specifications set out below and the conditions within this decision notice:

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- Site and Location drawing no. A103 Rev A;
- Proposed plans drawing no. A102;
- Design and Access Statement dated 21/08/2020; and,
- Coal Mining Risk Assessment dated 17 September 2020.

Reason: In order to define the permission.

3. No development shall take place on the external elevations of the hereby approved development until there has been submitted to and approved in writing by the Local Planning Authority details and/or samples of the materials and finishes to be used for the external elevations and roof of the proposal, and the development shall be carried out with those materials.

   Reason: To ensure the satisfactory appearance of the completed development in accordance with saved policies LS3 and H12 of the Adopted Amber Valley Borough Local Plan 2006.

4. The parking spaces shown on drawing no. A103 Rev A shall be available for customers of the hereby approved use during the opening hours.

   Reason: In the interests of highway safety in accordance with saved policies TP1 and TP6 of the Adopted Amber Valley Borough Local Plan 2006.

5. The existing gates on the site frontage shall remain open during the hours of the operation of the hereby approved use.

   Reason: In the interests of highway safety in accordance with saved policies TP1 and TP6 of the Adopted Amber Valley Borough Local Plan 2006.

6. No development shall commence until;
   a) a scheme of intrusive site investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;
   b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

   The intrusive site investigations and remedial works shall be carried out in accordance with
   authoritative UK guidance.

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Reason This pre-commencement condition is required to ensure that effective remedial or mitigating measures are taken to treat, control or contain unstable land in accordance with saved policy EN18 of the Adopted Amber Valley Borough Local Plan 2006 and paragraphs 178 and 179 of the National Planning Policy Framework.

Notes

Attention is drawn to the attached notes:

1 The Highway Authority advise that the existing dropped kerb on the site frontage shall be reinstated under Section 127 of the Highways Act 1980. Further advice can be found from Derbyshire County Council (website: www.derbyshire.gov.uk)

2 The Borough Council's Environmental Health (Pollution) section advises the applicant of the following:

The existing discharge stack(s) serving the kitchen do not appear to meet the advice in EMAQ's (formerly DEFRA's) best practice document 'Control of odour and noise from commercial kitchen exhaust systems' (05 September 2018); i.e. that stacks should terminate 1m above the roof ridge of any building within 15m of the kitchen; have an efflux velocity of 15m/s; and that the airflow from the end of the stack discharges vertically upwards and is not fitted with any restriction such as a plate, cap or cowl (other than an accelerator cowl to promote upward velocity, improving dispersion). The aim of any kitchen ventilation/extraction system is to ensure that no nuisance or loss of amenity is caused by odour or fumes to nearby properties. Designing and installing appropriate systems may involve considerable expense, so this should be done by a competent and reputable ventilation engineer with experience and knowledge of odour and grease control systems; ideally, the applicant should ask for references from previous customers.

A pragmatic view may be taken when assessing whether certain low-risk kitchens require any odour abatement to be fitted and, in reaching a decision, consideration should be given to the nature of the food being cooked, the size of the kitchen and its location; however, it should be noted that substantiated complaints about cooking odour/noise could result in enforcement action under environmental health legislation.

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3 The Coal Authority advises the applicant of the following:

Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. In the event that you are proposing to undertake such work in the Forest of Dean local authority area our permission may not be required; it is recommended that you check with us prior to commencing any works. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at: https://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property

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
LS3 - Design
ER4 - Industrial and storage development
ER11 - Quality and design of development
EN16 - Pollution
EN18 - Derelict, Unstable And Contaminated Land
TP1 - Impact on the Transport Network
TP6 - Parking

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.

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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.

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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.**