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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 policy and guidance and the saved policies of the Adopted Amber Valley Borough Local Plan 2006, and with reference to your application (**Office Code: AVA/2020/1230**) which was valid on the 23 December 2020 for permission for **Variation of conditions 2 and 8 of AVA/2020/0186 for a wider access to plot 2 at Overlane Farm Over Lane Hazelwood**

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 planning permission AVA/2020/0186 (25/06/2020).

   **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 listed below and with the conditions attached to this consent:

   Site Location Plan received 11th March 2020
   Proposed Block Plan - drawing number FDL-17-159-03 F dated June 2017

Date : 5 March 2021

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Proposed Elevations and Floor Plans - drawing number 0220/1865-1 received 24/02/2020
Proposed Street Scene and Sections - drawing number 0220-1865-3 received 24/02/2020
Garage Elevations received 25/06/2020

**Reason**: In order to define the permission.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order) no development relating to Class A, B, C, D, E of Part 1 of Schedule 2 (erection of extensions, outbuildings, porches, roof alterations) shall be undertaken without the prior written approval of the Local Planning Authority.

   **Reason**: To protect the character and visual amenities of the locality in accordance with policies LS3 and H12 of the Adopted Amber Valley Borough Local Plan 2006.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order) no windows (other than those approved by this permission) shall be formed on the first floor east elevation of plot 1 of the hereby approved development without the prior written approval of the Local Planning Authority.

   **Reason**: To safeguard the privacy and amenities of the occupiers of adjoining properties in accordance with policies LS3 and H12 of the Adopted Amber Valley Borough Local Plan 2006.

5. No development shall take place to the external elevations or roof of the dwellings 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 policies LS3 and H12 of the Adopted Amber Valley Borough Local Plan 2006.

6. No work shall commence to the boundary treatment of the site until full details of the proposed treatment of the boundaries of the site have been submitted to and approved

Date : 5 March 2021

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by the Local Planning Authority. Any agreed scheme shall be implemented in full in accordance with a phasing scheme prior to the occupation of the development.

**Reason**: To ensure both the satisfactory appearance of the completed development and an adequate level of amenity for the proposed dwellings in accordance with policies LS3 and H12 of the Adopted Amber Valley Borough Local Plan 2006.

7. The existing access to serve plot one shall remain unaltered and be maintained with visibility splays of 2.4m x 75m in both directions, the area in advance of the sightlines being maintained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

   **Reason**: In the interests of highway safety, as required by Policy TP1 of the Adopted Amber Valley Borough Local Plan 2006.

8. Prior to occupation of plot 2 a new vehicular access shall be created to Over Lane in accordance with the submitted application drawing FDL-17-159-03 F, laid out, constructed in a hard bound material and provided with visibility splays of 2.4m x 37m in the westerly direction and 2.4m x 50m in the easterly direction, the area in advance of the sightlines being maintained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

   **Reason**: In the interests of highway safety, as required by Policy TP1 of the Adopted Amber Valley Borough Local Plan 2006.

9. Prior to occupation of the hereby approved dwellings, space shall be provided within the application site, in accordance with the application drawings, for the parking and manoeuvring of vehicles to be laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated parking use.

   **Reason**: In the interests of highway safety, as required by Policy TP1 of the Adopted Amber Valley Borough Local Plan 2006.

Date : 5 March 2021

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**Notes**

**Attention is drawn to the attached notes:**

1 Due to the variable nature of agricultural use and the subsequent use of the site as a commercial yard, it is theoretically possible that the ground may have become contaminated. Contamination can occur due to fuels, chemicals, or materials stored or used in, or around structures; this includes any nearby 'farm pits'. The applicant should seek professional advice should contamination be suspected at any stage of the development and inform the Council's Scientific Officer at the earliest opportunity.

The developer should be aware that actions or omissions on their part could lead to liability being incurred, e.g. where development fails to address an existing unacceptable risk or creates such a risk by introducing a new receptor or pathway. More information regarding land contamination can be found on the Councils Land Pollution web page:

(www.ambervalley.gov.uk/environment-and-planning/pollution).

2 The Borough Council's Scientific Officer notes that section 5 of the Demolition Method Statement Asbestos is included as a significant hazard:

"The Client must ensure a specialist asbestos survey has been carried out to the parts of the existing building affected by the building work/demolition and removal carried out only by a specialist licensed contractor prior to any works commencing."

And in section 13 states that:

"Asbestos Demolition Survey: Prior to demolition work commencing, the Client must ensure a specialist asbestos survey of the existing building is carried out by a 'UKAS' Accredited Surveyor in accordance with Regulation 5 of 'The Control of Asbestos Regulations 2012'.
Asbestos Removal: Prior to any demolition works commencing, the Client or Contractor must ensure asbestos removal is carried out only by a specialist licensed contractor, as directed by the Asbestos Survey Report."

It is important that these actions are carried out: the developer/land owner/ land manager may be liable if they fail to identify and manage any Asbestos Containing

Date : 5 March 2021 Signed



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Materials (ACM) appropriately. More information regarding ACM can be found on the Health and Safety Executives web page (www.hse.gov.uk/asbestos).

3 Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy Transport & Environment at County Hall, Matlock regarding access works within the highway. Information and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website:

http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp,email Highways.Hub@derbyshire.gov.uk or telephone Call Derbyshire on 01629533190

**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
H4 - Housing development within settlements
H12 - Design and amenity considerations
TP1 - Impact on the Transport Network
TP6 - Parking
EN18 - Derelict, Unstable And Contaminated Land

**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.

Date : 5 March 2021 Signed

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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, sunlight/daylight, character and design, landscape or heritage features and highway safety.

Date : 5 March 2021

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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.**

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