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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/2020/1173**) which was valid on the 18 December 2020 for permission for **Demolition of existing buildings and erection of replacement dwelling house and garage at Orchard Cottage 30 Lower Road Mackworth**

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 **REFUSED for the following reasons:**

Conditions/Reasons

1. The site forms part of the setting of grade II listed Home Farm.

   The inappropriate application of the local architectural palette, the increased scale, rivalling that of the listed Home Farmhouse, the various factors of its design, including orientation, style and expression, within a decidedly suburban development pattern, would collectively combine to result in a development that would fail to preserve the character or appearance of the setting of the listed farmhouse

   The replacement dwelling would have an overbearing impact on the setting of Home Farm which would have a much greater impact than the current relationship between Orchard Cottage and the listed Home Farmhouse.

Date : 14 April 2021

Signed

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The 'less than substantial harm' is not outweighed by public benefit as per paragraph 196 of the NPPF.

The proposal is contrary to saved policy EN24 of the Adopted Amber Valley Borough Local Plan 2006 and Part 16 of the NPPF and the Planning (Listed Buildings and Conservation Areas) Act 1990.

The heritage policies in the NPPF provide a clear reason to refuse development in accordance with paragraph 11 d i of the NPPF.

2. The site forms part of the setting for the Mackworth Conservation Area and the Scheduled Monument, the Mackworth Medieval settlement, which includes the castle gatehouse, part of the medieval open field system and a pinfold.

The size of the house is significantly larger than the extended Orchard Cottage currently in situ, in area, volume and height. The increased bulk of the proposed dwelling, set in a more prominent location and orientation within the site, would be decidedly visible and incongruous within its rural context. The change between the current situation and the proposed would be both marked and detrimental to the locality.

The garages would be experienced as highly visible focal point from the lane and together with the paved driveway would result in an incongruous urban character being imposed on the site, which would be decidedly alien within this isolated, rural context.

The inappropriate application of the local architectural palette, the increased scale, the various factors of its design, including orientation, style and expression, within a decidedly suburban development pattern, would collectively combine to result in a development that would fail to preserve the character or appearance of the Mackworth Conservation Area.

The replacement dwelling will cause harm to the significance of the Scheduled Monument in terms of erosion of its rural landscape setting through a demonstrably increased scale and prominence of the proposed development.

The 'less than substantial harm' is not outweighed by public benefit as per paragraph 196 of the NPPF. The heritage policies in the NPPF provide a clear reason to refuse development in accordance with paragraph 11 d i of the NPPF.

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As such the proposal is contrary to saved policies EN27, EN30 and EN31 of the Adopted Amber Valley Borough Local Plan 2006 and Parts 15 and 16 of the NPPF.

3. The village falls within the Needwood & South Derbyshire Claylands settled farmlands character type, within a medieval open field system and a pinfold. These are characteristic of the settlement and have a high sensitivity to landscape change.

   The size of the house is significantly larger than the extended Orchard Cottage currently in situ, in area, volume and height. The increased bulk of the proposed dwelling, set in a more prominent location and orientation within the site, would be decidedly visible and incongruous within its rural context. The change between the current situation and the proposed would be both marked and detrimental to the locality.

   The garages would be experienced as highly visible focal point from the lane and together with the paved driveway would result in an incongruous urban character being imposed on the site, which would be decidedly alien within this isolated, rural context.

   The inappropriate application of the local architectural palette, the increased scale, the various factors of its design, including orientation, style and expression, within a decidedly suburban development pattern would collectively combine to result in an inappropriate form of development contrary to saved policies LS3, H12 and EN7 of the Adopted Amber Valley Borough Local Plan 2006 and Parts, 2, 5, 12 and 15 of the NPPF.

4. The application does not demonstrate that all of the application site has an existing use as domestic curtilage, and no evidence has been forwarded as part of the application nor a Certificate of Lawful Development has been issued confirming the status of this land for this purpose. Without the domestic curtilage having been demonstrated the proposal is contrary to saved policies EN1 and H5 of the Local Plan and Parts 2 and 5 of the NPPF, which seek to constrain development outside of the built framework.

5. The proposal does not constitute sustainable development for the purposes of paragraphs 8 and 11 d) i) of the National Planning Policy Framework, since the application of policies in the Framework that protect areas or assets of particular importance, provide a clear reason for refusing the development proposed by virtue of the environmental harm that would arise to the assets of national and local heritage value which is not outweighed by public benefit.

Notes

Date : 14 April 2021 Signed

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AVA/2020/1173
14 April 2021

Attention is drawn to the attached notes:

In detail:

The processing of this planning application has been undertaken in accordance with the requirements of the National Planning Policy Framework (NPPF). Dialogue between the applicant and Local Planning Authority has been undertaken to try and address the issues associated with the proposal. This includes the request for amended plans/additional information, however, the Applicant has been unwilling to submit amended plans and as such the issues have failed to be resolved.

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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. **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.**
3. **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.**
4. **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.**
5. **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

6. **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.**
7. **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.**
8. **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".**
9. **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.**
10. **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.**