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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/2020/0758**) which was valid on the 1 September 2020 for permission for **Change of use from existing drinking establishment (sui generis) to form industrial process (use class E (g) (iii) and associated external extraction flue, and extended associated living accommodation (C3) with extensions and alterations to outbuildings at 124 Derby Road Ripley Derbyshire**

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 shall be carried out in accordance with the details contained in the submitted plans and documents listed below and with the conditions attached to this permission:

   Location Plan, block plan, outbuilding B, Drawing 1587 104 Rev C

   Existing and proposed elevations - Drawing 1587-102 Rev A

   Proposed ground floor and first floor layout - Drawing 1587-101

Date : 27 April 2021

Signed

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Parking plan, Drawing 1587 105 Rev C

External lighting detail received

Reason: In order to define the permission

2. Notwithstanding the provisions contained within Schedule 2, Parts 3 and 4 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (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, namely industrial process Use Classes E(g)(iii) (as set out in the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, and associated living accommodation (Use Class C3) , and for no other purpose unless planning permission for a new use of the premises has been granted by the Local Planning Authority.

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

3. The on-site parking and turning shall be provided in accordance with the approved Parking plan, Drawing 1587 105 Rev C and maintained thereafter free from any impediment to its designated use throughout the life of the development.

   Reason: In the interests of highway safety in accordance with Saved Policy TP1 of the Adopted Amber Valley Borough Local Plan 2006

4. All activities, excluding deliveries, associated with the permitted industrial use (Use Class E(g)(iii)) shall take place only between 07:00 and 19:00 hours daily.

   Reason: In the interests of protecting amenity in accordance with saved Policy EN16 of the Adopted Amber Valley Borough Local Plan 2006.

5. All vehicle movements, including deliveries by HGVs (over 3.5 tonnes), associated with the permitted Use Class E(g)(iii) shall take place only between 07:00 and 15:00 hours daily. Deliveries by HGVs may also take place between 08:00 and 15:00 hours on Saturdays only, and at no time on Sundays or bank holidays.
   All deliveries that are not made from the roadside shall be to/from the on-site delivery area shown on drawing 1587-105- Rev C.

Date : 27 April 2021 Signed

Julian Townsend
Executive Director (Operations)

Reason: In the interests of protecting amenity in accordance with saved Policy EN16 of the Adopted Amber Valley Borough Local Plan 2006.

6. Within 2 months of the date of this permission, equipment to control the emission of fumes and smell from the premises, as well as the associated level and character of noise emissions, as set out under the heading Design of the kitchen extraction system in the e-mail from the agent Tim Wayne dated 09/12/2020, shall be installed in full at the premises. The system shall be appropriate to the nature and quantity of cooking done and sufficient to control the emission of smell and noise from the premises such that the residential amenity of nearby premises is not materially affected. This equipment shall be used whenever cooking is taking place and shall be switched off no later than fifteen minutes after the premises are required to close. 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 kept, and available for inspection, for at least the preceding 2 years.
Following installation, if an assessment of odour or noise emissions from the kitchen extraction system by the local planning authority determines that further mitigation is required, appropriate measures shall be taken in accordance with a scheme to be approved in writing by the Local Planning Authority within an agreed period.

   Reason: In the interests of protecting amenity in accordance with saved Policy EN16 of the Adopted Amber Valley Borough Local Plan 2006.

7. A grease trap/filtration system (or a suitable alternative) shall be installed in the drainage system to remove fats, oils, grease and solid matter from the waste water before it leaves the premises. The equipment shall be installed, operated and maintained in accordance with the manufacturer's instructions and retained for so long as the use continues.

   Reason: In the interests of protecting amenity in accordance with saved Policy EN16 of the Adopted Amber Valley Borough Local Plan 2006.

8. All permanent external lighting associated with the application shall be installed and operated in accordance with drawings 1587_102_Rev.A (02.02.2021) and 1587_104_Rev.C (02.02.2021). The lighting must be positioned on site to minimise light trespass and glare at all times. Between 23:00 hours and 07:00 hours the following day, all external lighting shall be switched off or operate intermittently via passive infra-red detectors only when needed for safety.

Date : 27 April 2021 Signed



Julian Townsend
Executive Director (Operations)

Reason: In the interests of protecting amenity in accordance with saved Policy EN16 of the Adopted Amber Valley Borough Local Plan 2006.

9. The flue to be located on the side gable as shown on drawing 1587-102 Rev A shall be painted matt black in colour within 2 months of installation, and maintained in such condition for the lifetime of the development.

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

10. The hereby approved outbuildings, identified as outbuilding A and outbuilding B on the approved plans shall be used in connection with the residential accommodation at the premises only, and shall not be used at any time in connection with the approved business use (Use class E(g)(iii) .

    Reason: To define the permission, and in the interests of protecting amenity in accordance with saved Policy EN16 of the Adopted Amber Valley Borough Local Plan 2006:

11. The facing materials to be used in the development hereby permitted shall be render as stated on the submitted application form, unless otherwise agreed in writing by the Local Planning Authority.

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

12. The roofing materials to be used in the development hereby permitted shall match as closely as possible those used in the construction of the existing building, unless otherwise agreed in writing by the Local Planning Authority.

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

Notes

Attention is drawn to the attached notes:

1 The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity.

Date : 27 April 2021 Signed



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Executive Director (Operations)

These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com or a similar service provider.

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: www.gov.uk/coalauthority

2 Note in relation to condition 7

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. 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, if food is to be cooked, fried or boiled, the kitchen cooking extraction/ventilation system should include the following elements:

Supply air intake;

Date : 27 April 2021 Signed

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Executive Director (Operations)

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;
Coarse/Grease separation (primary filtration);
Fine separation (secondary filtration) (e.g. panel filter, bag filter, electrostatic filter);
Odour control component (e.g. activated carbon, UV-c/ozone) sited under negative pressure (pre fan);
Flexible connections to isolate fan noise and transmission through the duct;
Extract fan (low noise centrifugal) positioned so as to keep all internal ductwork under negative pressure (pre fan). Ease of access to the fan and odour control filters for future cleaning and maintenance should also be considered. The preceding ducting may include a silencer positioned appropriately to reduce fan noise at the extract point. Anti-vibration mounts may also be needed;
A discharge stack (chimney) terminating as high as 1m above the roof ridge of any building within 15m of the kitchen with an efflux velocity of 15m/s. The airflow from the end of the stack must be 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; an accelerator cowl may be fitted to promote upward velocity, improving dispersion.

3 Note relating to condition 8

Disposing of fats, oils and grease (FOG) in drainage systems can cause the build-up of fatty deposits in drains and sewers, leading to blocked pipes (particularly in old properties where the pipework is inadequate or damaged), bad smells and flooding. Guidance in both the Building Regulations 2010 (Approved Document H: 'Drainage and waste disposal', 2015) and from Severn Trent Water recommend that drainage serving kitchens in commercial hot food premises is fitted with a grease separator or other effective means of removal to collect and separate grease during cooking and washing-up. Further advice on the location, size and suitability of grease traps, as well as the legal requirements, can be obtained from Severn Trent Water at:
https://www.stwater.co.uk/my-supply/waste-water/looking-after-your-sewers/how-to-avoid-blockages-in-a-commercial-kitchen/ or by calling 0121 809 2100 for advice on installing a grease trap.

4 Separate disposal arrangements must be made for household and trade waste: https://www.gov.uk/managing-your-waste-an-overview.

Date : 27 April 2021 Signed

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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:

LS3 - Design
H3 - Housing development within settlements
H12 - Design and amenity considerations
ER5 - Industrial and storage development
ER11 - Quality and design of development
LC11 - Community Facilities
TP1 - Impact on the Transport Network
TP6 - Parking
EN16 - Pollution
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.

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 : 27 April 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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