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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/2021/0782**) which was valid on the 13 July 2021 for permission for **Erection of new 6ft boundary fence and double gates to match existing fencing at 4 Drovers Way Ambergate 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 **REFUSED for the following reasons:**

Conditions/Reasons

1. The proposal cannot be considered under the householder application process since the application site is not considered to be within the domestic curtilage of 4 Drovers Way

Notes

Attention is drawn to the attached notes:

1 The applicant is advised that the proposal would be harmful to the setting of the grade II listed structure including the character and rural location due to the use of the proposed materials which are not considered appropriate and in keeping with the area and its surroundings.

The proposal is considered to be contrary to the NPPF paragraph 201 which states that where the proposal would lead to substantial harm of a designated heritage asset

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demonstration of the loss or harm should be identified. In this case the harm caused by the fencing on the designated heritage asset is not outweighed as there is no public befit for the enclosure of the land.

The proposal is not considered to comply with saved policy EN24 of the Adopted Amber Valley Borough Local Plan or paragraph 199 or 201 of the National Planning Policy Framework and the Supplementary Planning Document for Listed Buildings and Conservation Areas.

2 The applicant is advised that the proposal would result in loss of necessary visibility when entering or exiting the site and the existing visibility along the highway would be restricted which would result in an unsafe highway for both vehicle and pedestrian uses contrary to

saved policy TP1 of the Adopted Amber Valley Borough Local Plan and paragraph 110 of the National Planning Policy Framework, as safe and suitable access to the site is not achieved for all uses.

3 The applicant is advised that the proposal does not constitute sustainable development in terms of paragraph 8 of the NPPF and paragraph 11 d(i) of the NPPF which states proposals should be permitted unless the application of policies within the framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, there is such a clear reason in this case.

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, and allowing a delay in the determination of the application to give the applicant the opportunity to address the concerns, however, 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 twelve weeks 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.**