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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/2021/0369**) which was valid on the 10 August 2021 for permission for **Construction of 1.5 storey 3 bedroomed residential dwelling (C3 use class), to replace an existing agricultural barn at Hill Top Farm 80 Ashbourne Road Cowers Lane**

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 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 - drawing 2100_001

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Proposed Site Plan - drawing 2100_103
Proposed Block Plan - drawing 2100_102
Proposed East and West Elevations - drawing 2100_109_A
Proposed North and South Elevations - drawing 2100_107_A
Proposed Roof Plan - drawing 2100_106
Proposed Ground Floor - drawing 2100_104
Proposed First Floor - drawing 2100_105

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

3. No development shall take place to the external elevations of the hereby approved dwelling 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. No work shall commence on the hereby approved dwelling until such time as a scheme indicating proposed floor levels of all buildings, and the relationship of such to the existing dwellings has been submitted to and approved by the Local Planning Authority, and the development shall be constructed in accordance with the agreed levels.

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

5. The hereby approved dwelling shall not be occupied until full details of the proposed treatment of the boundaries of the site has been submitted to and approved 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 dwelling in accordance with saved policy H12 of the Adopted Amber Valley Borough Local Plan 2006.

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6. Notwithstanding the submitted details, the windows and doors on the south facing elevation of the hereby approved dwelling, serving the lounge, entrance hall, utility and dining room shall be glazed in highly obscured (non see through) glass and the windows, including those shown as bi-folding doors, shall be non-opening. Such work shall be completed prior to the commencement of use of the development and maintained as such thereafter.

   **Reason**: For the avoidance of doubt to safeguard the privacy and amenities of the occupiers of adjoining properties in accordance with saved policy H12 of the Adopted Amber Valley Borough Local Plan 2006.

7. 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, porches, roof alterations and outbuildings) 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 saved policies LS3 and H12 of the Adopted Amber Valley Borough Local Plan 2006.

8. 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 south elevation 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 saved policies LS3 and H12 of the Adopted Amber Valley Borough Local Plan 2006.

9. Prior to first occupation of the dwelling, the existing access to Ashbourne Road shall be modified in accordance with the application drawings, laid out, constructed and provided with visibility splays of 2.4m x 150m in the westerly direction and 2.4m x 94m in the easterly
   direction, the area in advance of the sightlines being maintained clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.

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

10. Prior to first occupation of the dwelling, space shall be provided within the application site in accordance with the application drawings for the parking and manoeuvring of existing and proposed residents' and service and delivery vehicles, laid out, surfaced and maintained
throughout the life of the development free from any impediment to its designated use.

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

11. Prior to first occupation of the dwelling, a bin storage area shall be provided within the application site adjacent to the highway boundary. The bin storage facility shall then be retained for its designated purposes for the life of the development in perpetuity.

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

12. The hereby approved development shall be carried out fully in accordance with the mitigation and enhancement measures outlined in Section 4.5 of the Bat Surveys report prepared by Turnstone Ecology dated August 2021.

    **Reason**: In the interests of preventing harm to protected species as required by Policy EN13 of the Adopted Amber Valley Borough Local Plan 2006.

**Notes**

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

1 Due to the variable nature of agricultural use 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.

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More information regarding land contamination can be found on the Councils Land Pollution web page:
(www.ambervalley.gov.uk/environment-and-planning/pollution

2 a). 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, e-mail highways.hub@derbyshire.gov.uk or telephone Call Derbyshire on 01629 533190.

b). Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway, measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

3 The buildings have potential to support nesting birds. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (as amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent. No building demolition work should be undertaken between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the work is commenced. If any active nests are discovered then the nest should be left undisturbed until the birds have fledged with an appropriate buffer surrounding the nest.

4 Derbyshire Wildlife Trust advises the proposed works will have to be carried out under a Natural England licence in order to avoid committing an offence. On the basis of the submitted information the Tryst advises that the proposed development will affect bats through disturbance of a European Protected Species and the destruction of a resting place. All species of bats are European Protected Species and a licence is required in order to carry out any works that involve disturbance to the animals or destruction of their resting place.

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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:

LS1 - Sustainability criteria
LS3 - Design
H5 - Housing development outside settlements
H12 - Design and amenity considerations
TP1 - Impact on the Transport Network
TP6 - Parking
EN1 - Countryside
EN13 - Nature Conservation

**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.

Whilst the approval of this application would represent a departure from the Local Plan, the other material considerations are significant and in this instance outweigh the presumption against development in the countryside and provide justification to support the proposal. Despite being within the countryside the development is acceptable in terms of scale and character, makes efficient use of the land, a satisfactory access to the highway can be provided, there is a limited impact on the amenity of the area and there is no significant adverse impact on landscape features. Furthermore a former planning approval has established that the site is capable of accommodating a dwelling which is economically, socially and environmentally sustainable.

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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 Cadena'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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