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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/2021/0669**) which was valid on the 25 June 2021 for permission for **Variation of conditions 2, 4, 5, 7, 8 and 10 of AVA/2019/1130 for amended internal layout, amended opening hours, details of windows and railings, details of air conditioning units, extractor fan system and ventilation dormer finish at TA Blu7 Ltd Blu7 Ltd The 1924**

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 the original permission AVA/2019/1130 (i.e. before 4 December 2023).

   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 and documents listed below:

Date : 19 November 2021 Signed

Julian Townsend
Executive Director (Operations)

- Site Location Plan drawing no. 01-001 Rev 001;
- Site Block Plan Proposed layout drawing no. 01-002 Rev 001;
- Proposed layouts elevations drawing no. 01-302 Rev 006;
- Proposed layouts ground floor and roof level drawing no. 01-102 Rev 007;
- Front Elevation Railings drawing no. 01-906 Rev 001;
- Window Details drawing no. 01-905 Rev 001;
- Air conditioning - RAV-GM Data Sheet RAV-GM1101ATP-E;
- Air conditioning - RAV-GM Data Sheet RAV-GM801ATP-E; and,
- Air conditioning spec Cylindrical cased axial flow fans.

Reason: In order to define the permission.

3. Notwithstanding the provisions contained within the Town and Country Planning (Use Classes) Order 1987 (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 and for no other purpose (i.e. for 17 units in retail use and 1 unit in café/restaurant use).

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

4. The timber window surrounds, including timber mouldings, and metal security railings shall be carried out in accordance with the details shown on drawing no. 01-0905 Rev 001 and 01-906 Rev 001.

   Reason: To ensure the works are carried out in a way which respects the special appearance and character of the Conservation Area and World Heritage Site in accordance with saved policies LS3, EN27 and EN29 of the Adopted Amber Valley Borough Local Plan 2006.

5. No deliveries shall be taken at, or despatched from the site, other than between 08:30 and 18:00 on Mondays to Saturdays, with no deliveries on Sundays or Bank Holidays.

   Reason: To protect the amenity of the residents of adjacent properties in accordance with saved policy EN16 of the Adopted Amber Valley Borough Local Plan 2006.

6. Notwithstanding the hereby approved plans, the hereby permitted flue shall be finished in a matt black colour within one month from the date of this permission.

Date : 19 November 2021 Signed



Julian Townsend
Executive Director (Operations)

Reason: To ensure the works are carried out in a way which respects the special appearance and character of the Conservation Area and World Heritage Site in accordance with saved policies LS3, EN27 and EN29 of the Adopted Amber Valley Borough Local Plan 2006.

7. No externally mounted/ducted plant, machinery or equipment shall be operated before the Local Planning Authority has approved, in writing, detailed information regarding its acoustic performance, operating hours and location. If required by the Local Planning Authority, an assessment of noise emissions shall be submitted to, and approved in writing by, the Local Planning Authority. Where considered necessary to protect residential amenity, the equipment shall be acoustically insulated, mounted or relocated in a way which minimises the emission and transmission of sound in accordance with a scheme to be approved in writing by the Local Planning Authority, such that the rating level does not exceed the background sound level when assessed in accordance with the methodology in British Standard 4142:2014+A1:2019 'Methods for rating and assessing industrial and commercial sound'.

   Reason: To protect the amenity of the residents of adjacent properties in accordance with saved policy EN16 of the Adopted Amber Valley Borough Local Plan 2006.

8. The installed kitchen fume extract/ventilation system shall be operated and maintained at all times to achieve a 'Low Impact Risk' when odour nuisance is assessed in accordance with EMAQ's best practice document: 'Control of odour and noise from commercial kitchen exhaust systems' (05 September 2018). Records documenting the level of maintenance and servicing shall be kept, and available for inspection, for at least the preceding 2 years.

   Reason: To protect the amenity of the residents of adjacent properties in accordance with saved policy EN16 of the Adopted Amber Valley Borough Local Plan 2006.

9. The area identified as 'Light Well' on drawing no. 01-102, Rev 007 shall be used for storage purposes only and all doors and windows adjoining this area (located on the eastern and southern elevations of the light well as shown on drawing no. 01-102 Rev 007) shall remain closed, other than for the duration of access/egress.

   Reason: To protect the amenity of the residents of adjacent properties in accordance with saved policy EN16 of the Adopted Amber Valley Borough Local Plan 2006.

10. All retail uses hereby permitted shall be open to customers only at the followings times;

Date : 19 November 2021 Signed



Julian Townsend
Executive Director (Operations)

- Monday- Saturday between 08:00 - 18.30 (except for 5 late night opening days only, to coincide with official Belper Town Christmas lights switch-on and Christmas late night shopping dates, in any one calendar year, opening between 08:00 - 20:00)

- No opening on Sundays or Bank Holidays (except for 4 Sundays and 2 Bank Holidays only, to coincide with official Belper Town events, in any one calendar year, opening between 08:00 - 18.30)

Reason: To protect the amenity of the residents of adjacent properties in accordance with saved policy EN16 of the Adopted Amber Valley Borough Local Plan 2006.

11. The cafe hereby permitted shall be open to customers only at the following times;

- Monday- Saturday between 08:30 - 18.00 (except for 5 late night opening days only, to coincide with official Belper Town Christmas lights switch-on and Christmas late night shopping dates, in any one calendar year, opening between 08:00 - 20:00)

- No opening on Sundays or Bank Holidays (except for 4 Sundays and 2 Bank Holidays only, to coincide with official Belper Town events, in any one calendar year, opening between 08:30 - 18.00)

Reason: To protect the amenity of the residents of adjacent properties in accordance with saved policy EN16 of the Adopted Amber Valley Borough Local Plan 2006.

Notes

Attention is drawn to the attached notes:

1 With regards to condition 5, Environmental Health (Pollution) advise that whilst safe waiting areas for delivery vehicles are limited along Campbell Street, wherever reasonably practicable to do so, HGV delivery drivers should choose a location as far as possible from nearby dwellings, avoid parking immediately outside them, and keep waiting times to an absolute minimum.

2 With regards to condition 8, the applicant is advised of the following:

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.

Date : 19 November 2021 Signed



Julian Townsend
Executive Director (Operations)

To meet the requirements of EMAQ's (formerly DEFRA's) best practice document: 'Control of odour and noise from commercial kitchen exhaust systems' (05 September 2018), the kitchen cooking extraction/ventilation system should comprise:
- Supply air intake;
- 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, 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.

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
TC1 - Development in Town Centres
TC8 - Food and Drink
TP1 - Impact on the Transport Network
ER11 - Quality and design of development
EN16 - Pollution

Date : 19 November 2021 Signed

Julian Townsend
Executive Director (Operations)

EN27 - Conservation Areas
EN29 - Derwent Valley Mills World Heritage Site

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 : 19 November 2021 Signed



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Executive Director (Operations)

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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