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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 the saved policies of the Adopted Amber Valley Borough Local Plan 2006, and with reference to your application (**Office Code: AVA/2021/0765**) which was valid on the 30 June 2021 for permission for **Outline Permission sought for the principle of constructing a new dwelling with all matters reserved at Land Adjacent Christmas Cottage Church Lane Kirk Langley**

In the manner described in the application and shown on the accompanying plans and drawings **NOTICE IS HEREBY GIVEN** that permission for the proposed development is **REFUSED for the following reasons:**

Conditions/Reasons

1. The development is considered harmful to the openness and character of the countryside and its landscape character from a development on an application site which is open in nature, bordered on three sides by countryside, causing a prominent intrusion into the landscape and the erosion of an open gap in between existing development which is an important characteristic that contributes to the positive and bucolic nature of the locality. The application is contrary to Policy HOUS2 of the Adopted Kirk Langley Neighbourhood Plan as the development is not within or adjacent to the built framework of the village; contrary to Policy EN1 of the Adopted Amber Valley Borough Local Plan 2006, which seeks to ensure careful control is exercised over development outside of settlements to maintain the openness of the countryside; and contrary to Policy H5 of the Adopted Amber Valley Borough Local Plan 2006 as the development is not within the settlement framework.

The introduction of a dwelling on the application site would fail to conserve or enhance the quality or local agricultural distinctiveness of the natural environment, contrary to Policy LS3 of the Adopted Amber Valley Borough Local Plan 2006; contrary to Policy H12 of the Adopted Amber Valley Borough Local Plan 2006 as it would not respect the site's agricultural surroundings; and contrary to Policy HOUS4 of the Adopted Kirk Langley Neighbourhood Plan as the development would not compliment the site's rural context. The application is contrary to Policy EN7 of the Adopted Amber Valley Borough Local Plan 2006 as the development would not be sympathetic to the pattern and distribution of the existing settlement; contrary to Paragraph 174 (a) of the National Planning Policy Framework as the development would not contribute to or enhance the natural and local environment, regarded as a valued landscape in the context of the Kirk Langley Conservation Area; contrary to Paragraph 174 (b) of the National Planning Policy Framework as the development does not recognise the intrinsic character and beauty of the countryside location; and contrary to Paragraph 130 (a) and (c) of the National Planning Policy Framework because the development would not add to the quality of the area or be sympathetic to the local agricultural character and history of the locality.

2. The proposal would fail to conserve or enhance the character or appearance of Kirk Langley Conservation Area, recognised as being of a distinct agricultural and rural character in this locality that makes a positive contribution to the designated heritage asset; caused by a development which would be alien to its character by introducing a more sub-urban development pattern into a distinctly rural and open context. The development is contrary to Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990; and contrary to Policy EN27 of the Adopted Amber Valley Borough Local Plan 2006 because it fails to preserve or enhance the character or appearance of the Conservation Area; contrary to Policy HER2 of the Adopted Kirk Langley Neighbourhood Plan because the development fails to have regard to the significance of the Conservation Area; contrary to Paragraphs 197 and 200 of the National Planning Policy Framework as the development fails to sustain or enhance the significance of the heritage asset and does not evidence clear or convincing justification for the loss of significance to the asset. The harm is 'less than substantial' with the public benefits not outweighing the harm in the planning balance having regard to Paragraph 202 of the National Planning Policy Framework.

3. The proposal does not constitute sustainable development for the purposes of paragraphs 8 (c) 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 Kirk Langley Conservation Area.

Notes

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 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 as there is a fundamental in principle objection to housing on the application site.

Date : 23 November 2021

Signed



Julian Townsend
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. **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.**