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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/2020/1102**) which was valid on the 20 November 2020 for permission for **Outline Permission sought for 2no. residential dwellings at Land Off Top Lane Top Lane Whatstandwell**

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 site is located within the buffer zone to the Derwent Valley Mills World Heritage Site, and contributes to the rural character of the of the settlement of Whatstandwell. The development of the site to accommodate two dwellings would be harmful to the Outstanding Universal Value of the Derwent Valley Mills World Heritage Site as a result of the erosion of its setting as an 'attribute' of its significance.

   The proposal is contrary to saved policy EN29 of the Adopted Local Plan 2006 as it does not preserve or enhance the setting of the World Heritage Site and results in harm to the Outstanding Universal Value of the World Heritage Site and contrary to Part 16 of the National Planning Policy Framework as it does not sustain or enhance the significance of the World Heritage. The public benefits arising from the development of two dwellings on the application site would not outweigh the 'less than substantial' harm caused to the setting of the designated heritage assets, having weighed the harm against the public benefit in accordance with paragraph 202 of the National Planning Policy Framework.

   In the finding of 'less than substantial' harm and without the public benefits outweighing the harm, the restrictive policies, which seek to protect the historic environment as set out in Part 16 of the National Planning Policy Framework, therefore

provide a clear reason to refuse this development in accordance with paragraph 11, d i of the NPPF.

2. Approval of the proposal would result in a detrimental impact to the character and appearance of Whatstandwell Conservation Area due to the loss of a site which contributes to the rural village setting within which it is associated, in view from the public realm and providing a natural open space and part of a wider open break of previously undeveloped land.

   The proposal is contrary to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires a statutory presumption to refuse an application which fails to protect the special historic interest of the Conservation Area and results in 'less than substantial' harm to the designated heritage asset having regard to Paragraph 202 of the National Planning Policy Framework, with no public benefits arising from the development to outweigh the harm caused.

   The proposal is also contrary Policy EN27 of the Local Plan, which states that planning permission will only be granted for development proposals in adjacent to Conservation Areas if they contribute to the preservation or enhancement of the Conservation Area, including any development affecting its setting.

   The proposal is therefore contrary to saved policy EN27 of the Adopted Local Plan 2006 as it does not contribute to the preservation or enhancement of the Conservation Area; contrary to NP11 of the Crich Parish Neighbourhood Plan 2017-2031 as it harms the character and appearance of the Conservation Area and contrary to Part 16 of the National Planning Policy Framework as it does not sustain or enhance the significance of the Conservation Area. The public benefits arising from the development of two dwellings on the application site would not outweigh the 'less than substantial' harm caused to the setting of the designated heritage assets, having weighed the harm against the public benefit in accordance with paragraph 202 of the National Planning Policy Framework.

   In the finding of 'less than substantial' harm and without the public benefits outweighing the harm, the restrictive policies, which seek to protect the historic environment as set out in Part 16 of the National Planning Policy Framework, therefore provide a clear reason to refuse this development in accordance with paragraph 11, d i of the NPPF.

Notes
Attention is drawn to the attached notes:

1 The applicant is advised that there may be Japanese Knotweed present on the site, and that they should undertake an inspection of the site to ensure that any Japanese Knotweed present is dealt with under the correct procedures.

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.

Date : 30 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.**