Julian Townsend
Executive Director (Operations)
Development Management

Town Hall
Ripley
Derbyshire DE5 3BT
Tel: 01773 570222
Fax: 01773 841523
Email: enquiry@ambervalley.gov.uk
Web: www.ambervalley.gov.uk

Mr & Mrs Liam & Jenny Higgins
Peony Gifts And Kitchen
122 Main Street
Horsley Woodhouse
Derbyshire
De76aw
United Kingdom

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/2021/1123**) which was valid on the 21 October 2021 for permission for **Variation of opening hours to Monday to Friday 8am until 17.00pm and Saturdays, Sundays and Bank Holidays 9am- 5pm**
at 122 Main Street Horsley Woodhouse Ilkeston

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.

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2. The use hereby permitted shall not be open to customers, and no deliveries shall be taken at or despatched from the site, at any times other than between:

   08:00 hours and 17:00 hours on Mondays to Fridays;
   09:00 hours and 17:00 hours on Saturdays, Sundays and 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.

3. Equipment to control the emission of fumes and smell from the premises shall be in use when cooking is taking place. The system shall be appropriate to the nature and quantity of cooking done and sufficient to control the emission of smell, and any associated noise from the system, such that the residential amenity of nearby premises is not materially affected. Any such equipment shall be installed only in accordance with a scheme to be first submitted to, and approved in writing by, the Local Planning Authority and shall thereafter be operated and maintained in accordance with that approval and the manufacturer's instructions, and retained for so long as the use continues.

   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 Where a commercial building is sub-divided and attached to dwellings, it is important to ensure that party walls provide reasonable resistance to the transmission of airborne sound via walls, floors and stairs, and to impact sound via floors and stairs, to minimise the impact of noise on any adjoining properties where this could result in future enforcement action in response to complaint and the substantial cost of remedying inadequate sound insulation. Noisy kitchen equipment/activities, such as cooking and extraction systems, should not be located on or near to party walls/structures to minimise the transmission of noise.

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2 The appropriateness of the kitchen cooking extraction/ventilation system will depend on the nature and quantity of cooking done; for example, a domestic kitchen system is unlikely to adequately deal with the cooking odours associated with large amounts of deep fat frying or boiling and it may be necessary to install commercial equipment, including an elevated chimney flue, to ensure that:
o the standard of odour suppression is sufficient to ensure that no significant odour is detectable at any odour-sensitive premises;
o the extracted air is discharged at such a height, position and direction as to ensure the adequate dilution and dispersal of cooking odours;
o the airflow from any chimney is 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 at the final opening. An accelerator cone or similar device could be included to increase the exit velocity of emissions;
o noise to the environment is controlled by taking acoustic considerations into account within duct, fan and termination design.

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
TC8 - Food and Drink
EN16 - Pollution
EN18 - Derelict, Unstable And Contaminated Land
TP1 - Impact on the Transport Network

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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.

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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 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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