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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/2020/1133**) which was valid on the 1 December 2020 for permission for **Proposed single-storey rear extension including demolition and relocation of garden retaining wall at Lea Hurst Lodge Unnamed Road From Lea Bridge To Lea Wood Lea Bridge**

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 dwelling is a non-designated heritage asset which makes a positive contribution within its rural environment.

   The proposals would be harmful to the character or appearance of this non-designated heritage asset as a result of the excessive additional accommodation which would be overly-dominant to the building and involve further loss of its intended architectural composition.

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The proposed extension would add a significantly large area of single-storey accommodation to the rear of the lodge, linking it with the existing annexe. The structure would necessitate engineering works to accommodate the extension into the natural slope of the land to the rear. The overall scale of experience of the dwelling would be of an extensive modern intervention into a historic landscape context of significance on an international scale.

In addition to the proposed additional accommodation, the current detached annexe would become an integral part of the former lodge, thereby increasing its perceived size to a greater magnitude than the area of the extension alone. The character of the lodge itself would be decidedly altered, as would its contribution to this historic context.

The proposed extension would be an excessively large and incongruous addition to this sensitive context and would, therefore, fail to preserve the character or appearance of the existing dwelling and its setting. This is contrary to Policy LS3 of the Adopted Amber Valley Borough Local Plan 2006, as the development does not conserve or enhance the quality, and in particular the local distinctiveness of the locality; contrary to Policy NPP4 of the Dethick, Lea and Holloway Neighbourhood Plan as the proposal is not sympathetic to local character and contrary to Paragraph 130 (c) of the National Planning Police Framework, as the proposed design is not sympathetic to the site's local character and history.

The harm to the designated heritage assets would be 'less than substantial'. The proposal is contrary to Paragraph 203 of the National Planning Policy Framework as the development would harm the significance of the non-designated heritage asset; contrary to Part 16 of the National Planning Policy Framework as the application fails to demonstrate any clear or convincing justification for the harm caused.

The proposal would fail to comply with Part 16 of the NPPF. This provides a clear reason to refuse the application in accordance with paragraph 11 d) i of the NPPF. The proposal also fails to meet the requirements of environmental sustainability as required by paragraph 8 of the NPPF.

2. The site is located within the Dethick Lea and Holloway Conservation Area.

The character and appearance of the Dethick, Lea and Holloway Conservation Area would not be preserved as a result of the proposals by the fundamental change in character to a building that makes a positive contribution. Consequently, the adverse impact would be harmful to the special architectural or historic interest of the designated Conservation Area.

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The harm to the designated heritage assets would be 'less than substantial'.

The development is therefore contrary to Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as the development fails to preserve or enhance or enhance the character or appearance of the Conservation Area; contrary to Policy EN27 of the Adopted Amber Valley Borough Local Plan 2006, as the proposals fails to contribute to the preservation or enhancement of the Conservation Area; contrary to Policy NPP6 of the Dethick, Lea and Holloway Neighbourhood Plan.

The proposal is contrary to Paragraph 197 (a) of the National Planning Policy Framework as the development fails to sustain and enhance the significance of the heritage asset; contrary to Paragraph 200 of the National Planning Policy Framework as the application fails to demonstrate any clear or convincing justification for the harm caused.

As a domestic proposal the public benefit required to be considered in the planning balance through Paragraph 202 of the National Planning Policy Framework does not outweigh the 'less than substantial' harm caused to the Conservation Area.

The proposal would fail to comply with Part 16 of the NPPF. This provides a clear reason to refuse the application in accordance with paragraph 11 d) i of the NPPF. The proposal also fails to meet the requirements of environmental sustainability as required by paragraph 8 of the NPPF.

3. This site is located within the Buffer Zone, immediately against the boundary of the Derwent Valley Mills World Heritage Site (WHS) through which its access is taken.

The setting and significance of the World Heritage Site would be harmed by the loss of character to an element of one of its 'attributes'. Consequently, the loss of significance to Lea Hurst Lodge, resulting from the proposed extensions and alterations, would be harmful to the OUV of the World Heritage Site.

The harm to the designated heritage assets would be 'less than substantial'.

The development is therefore contrary to Policy EN29 of the Adopted Amber Valley Borough Local Plan 2006, as the development fails to preserve or enhance the setting of the World Heritage Site, including views into and out of the site; contrary to Paragraph 197 (a) of the National Planning Policy Framework as the development fails

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to sustain and enhance the significance of the heritage asset; contrary to Paragraph 202 of the National Planning Policy Framework as the application fails to demonstrate any clear or convincing justification for the harm caused.

As a domestic proposal the public benefit required to be considered in the planning balance through Paragraph 202 of the National Planning Policy Framework does not outweigh the 'less than substantial' harm caused to the Outstanding Universal Value of the Derwent Valley Mills World Heritage Site.

The proposal would fail to comply with Part 16 of the NPPF. This provides a clear reason to refuse the application in accordance with paragraph 11 d) i of the NPPF. The proposal also fails to meet the requirements of environmental sustainability as required by paragraph 8 of the NPPF.

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) Core Planning Principles. Dialogue between the applicant and Planning Authority has been undertaken to try and address the issues associated with the proposal, however, the issues have failed to be resolved.

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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 twelve weeks 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.**