



Simon Gladwin
Executive Director (Operations)
Development Management

Town Hall
Ripley
Derbyshire DE5 3BT
Tel: 01773 570222
Fax: 01773 841523
Minicom: 01773 841490
Email: enquiry@ambervalley.gov.uk
Web: www.ambervalley.gov.uk

Mr T Harby
Red Lion
Front Street
Fritchley
Belper
Derbyshire
DE56 2FT

Seb Design
24 Springfield Avenue
Loscoe
Heanor
Derbyshire
DE75 7LN

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/2021/0132**) which was valid on the 2 February 2021 for permission for **Construct a new building which includes the change of use of an existing store building to form holiday let and removal of an Ash tree at Red Lion Front Street Fritchley**

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 application site comprises the beer garden area and a store building to the existing public house the Red Lion.

The proposal would result in the redevelopment of the beer garden and the conversion of the store building to allow the construction of a building to accommodate a holiday let, with the loss of those facilities to the existing public house.

The applicant has not provided sufficient information to demonstrate that there is insufficient local demand to justify or sustain the existing use of the facility such as to warrant redevelopment and a change of use of part of the premises, or that an alternative facility is to be provided.

Date : 28 June 2022

Signed

A handwritten signature in black ink, appearing to read 'S Gladwin', is written over a light blue circular stamp.

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The proposal is therefore contrary to Saved policy LC11 of the Adopted Amber Valley Borough Local Plan 2006, policy NP16 of the Crich Neighbourhood Plan, and paragraph 93 (c) of the NPPF, which seek to guard against unnecessary loss of community facilities.

2. The application site makes a positive contribution to the character and appearance of the Fritchley Conservation Area, and the setting of the nearby Grade II Listed Congregational Chapel. It comprises an open beer garden to the side of the public house, with stone retaining walls, and where a mature Ash tree is growing.

The proposal would result in the introduction of a two-storey building in this location, with associated private amenity space, and alterations to the boundary wall, in what is a highly visually prominent location at the junction of Front Street and The Green. The proposal would result in the loss of the open beer garden and prominent Ash tree.

The proposal would result in harm to the setting and special interest of the grade II Listed building, and to the character and appearance of the Fritchley Conservation Area through the visually intrusive development and loss of a tree.

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 Crich Neighbourhood Plan policy NP11 as the design would not preserve the heritage attributes 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 proposal is therefore contrary to Saved policy EN24 of the Adopted Local Plan 2006 as it does not contribute to the preservation of the setting of the Listed Building, and contrary to Part 16 of the National Planning Policy Framework as it does not sustain or enhance the significance of the setting of the Listed Building.

The public benefits arising from the development within the Fritchley Conservation Area and the setting of the Listed Buildings would not outweigh the 'less than substantial' harm caused to 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.

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3. The application site contains an Ash Tree, protected by a Tree Preservation Order, which can be viewed throughout The Green and makes a significant visual amenity contribution to the area.

The erection of the proposed holiday let building would require the removal of the Ash tree growing within the beer garden at the site.

The Ash tree makes a significant positive contribution to the character and appearance of the Conservation Area, and its loss would be harmful to the visual amenity of the area.

The proposal would be contrary to Saved policy EN8 of the Adopted Amber Valley Borough Local Plan 2006 due to the loss of a significant tree and policy NP 8 of the Crich Neighbourhood Plan which seeks to protect the openness or special character of Local Green Spaces.

4. The supporting statement submitted with the application notes that the presence of any protected species will need to be identified and mitigated where necessary. No ecological information has been submitted with the application.

The proposed work to the existing building and removal of the tree has potential to result in the loss of bat roosts and the killing or injuring of any bats that may be present at the time of the works.

It is considered that insufficient information has been provided with respect to the presence or otherwise of any protected species and the extent that they may be affected by the proposed development. This is contrary to Saved policy EN13 of the Amber Valley Borough Local Plan 2006, Policy NP 9 of the Crich Neighbourhood Plan, and Section 15 of the NPPF which seek to safeguard protected species and their habitats.

Notes

Attention is drawn to the attached notes:

The applicant is advised that it may be possible to overcome the issues raised in reason for refusal number 4 through the submission of a Preliminary Ecological Assessment and any associated scheme of mitigation which may be required.

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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 to give the applicant the opportunity to address the concerns, 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 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.