Simon Gladwin
Executive Director (Operations)

Development Management
Town Hall Ripley
Derbyshire DE5 3BT
Tel: 01773 570222 Fax: 01773 841523
Minicom: 01773 841490
E-Mail: enquiry@ambervalley.gov.uk
Web: www.ambervalley.gov.uk

Mr Arther Allsop
Fred Davidson Limited
10 Lower Maples
Shipley
Heanor
DE75 7JU

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Shipley
Heanor
DE75 7JU

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/2020/0708**) which was valid on the 13 January 2021 for permission for **Demolition of existing outbuilding and erection of two dwellings at Land To The Rear Of 29 Derby Road Heanor**

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 development is out of character with the immediate locality, with the erection of two dwellings in this location resulting in a contrived and cramped form of development that does not reflect or respect the relationship between the existing properties in the street scene and the scale and nature of the adjacent and surrounding development. This is contrary to saved policy LS3 of the Adopted Amber Valley Borough Local Plan 2006 which states that development proposals are required to reflect the principles of good design by conserving or enhancing the quality and local distinctiveness of the natural and built environment, and by respecting the character of the locality, including, the scale and nature of development, its layout, density, height and massing; saved policy H12 (a) of the Amber Valley Borough Local Plan 2006, which states that, in considering housing applications, the Borough Council will require that proposals are in scale and character with their surroundings; the Borough Council's Supplementary Planning Document: Residential Development which requires development to respect established patterns of development and, contrary to Part 12 of the NPPF which in paragraph 130 requires a good quality of development. The proposal fails to meet the requirements of sustainable development environmentally and socially, as defined and required by paragraph 8 of the NPPF, and would result in adverse impacts that would significantly and demonstrably outweigh the benefits of one dwelling, contrary to paragraph 11 d) ii of the NPPF.

2. The proposal, by virtue of the constrained and cramped application site, limited separation distances and proposed two storey development, would result in an overbearing form of development, to the detriment of neighbouring residential amenity; provide a poor outlook from habitable rooms of the proposed dwellings, to the detriment of future occupiers of the property; has not demonstrated that there would be no overlooking of neighbouring properties, to the detriment of neighbouring residential amenity; and, provides insufficient private amenity space to serve both the existing and proposed dwellings, to the detriment of existing and future occupiers of the properties. This is contrary to saved policy H12 (c and d) of the Amber Valley Borough Local Plan 2006, the Borough Council's Supplementary Planning Document: Residential Development and Part 12 of the National Planning Policy Framework which seek to secure a high standard of amenity for all existing and future occupiers of land and buildings. The proposal fails to meet the requirements of sustainable development environmentally and socially, as defined and required by paragraph 8 of the NPPF, and would result in adverse impacts that would significantly and demonstrably outweigh the benefits of two dwellings, contrary to paragraph 11 d) ii 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). Given that there are fundamental concerns relating to principle of the proposal dialogue between the applicant and Local Planning Authority has not been undertaken to try and address the issues associated with the proposal. The agent was notified of the concerns relating to the proposed development, prior to a decision being issued. Having regard to the fundamental concerns raised, no amended plans were submitted and the agent requested a decision to be issued.

Date : 5 July 2022

Signed

Simon Gladwin
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.**