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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/2021/1339**) which was valid on the 24 December 2021 for permission for **Proposed construction of a coffee shop with drive thru facility (Use Class E) with parking, landscaping and other associated works at Former Coates Viyella Nottingham Road Somercotes**

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.

Date : 15 July 2022

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2. The development shall be carried out in accordance with the details contained in the submitted plans (and documents) listed below and any conditions attached to the permission:

   Site location plan - Drawing number 210147 PL_01
   Proposed site plan - Drawing number 210147 PL_03
   Proposed boundary treatment - Drawing number 210147 PL_06
   Proposed building plan, roof and elevations - Drawing number 210147 PL_04
   Proposed site levels and sections - Drawing number 210147 PL_05

   Reason: In order to define the permission.

3. Throughout the construction phase, space shall be provided within the site curtilage for storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives and visitors vehicles.

   Reason: In the interests of highway safety in accordance with saved policy TP1 of the Adopted Amber Valley Borough Local Plan 2006.

4. Before any operations are commenced, the existing vehicular access to Nottingham Road shall be permanently closed with a physical barrier and the existing vehicle crossover reinstated as footway and verge in a manner to be agreed in writing with the Local Planning Authority in
   consultation with the County Highway Authority.

   Reason: In the interests of highway safety in accordance with saved policy TP1of the Adopted Amber Valley Borough Local Plan 2006.

5. The premises, the subject of the application, shall not be taken into use until space has been provided within the application site in accordance with the application drawings for the parking and manoeuvring of staff, customers and service and delivery vehicles, laid out, surfaced and
   maintained throughout the life of the development free from any impediment to its designated use.

   Reason: In the interests of highway safety in accordance with saved policy TP6 of the Adopted Amber Valley Borough Local Plan 2006.

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6. a. The development shall be undertaken in strict compliance with the requirements contained within the 3E Remediation Statement. Dated 21 September 2018. Ref: P17-249/RS (the 'RMS'). Any proposed revisions to the RMS must be submitted and approved in writing by the Local Planning Authority prior to any changes in remediation methods.

   b. If during development works, any contamination is encountered which was not previously identified and is derived from a different source and/or of a different type to those already identified, then no further works shall take place until a revised RMS is submitted to and approved in writing by the Local Planning Authority and the works shall then be carried out in accordance with the revised RMS.

   c. If during development work, site contamination is found in areas previously expected to be uncontaminated, then the remediation of those areas shall be carried out in accordance with the approved RMS.

   d. No building shall be occupied unless and until a Verification Report in accordance with the RMS has been submitted to and approved in writing by the Local Planning Authority.

   e. All investigations, assessments and reports must be carried out by a suitably qualified competent person and in accordance with Environment Agency publication Land contamination: risk management (LCRM).

   Reason: In order to ensure the safety of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework and saved policy EN18 of the Adopted Amber Valley Borough Local Plan 2006.

7. The use hereby permitted shall not be open to customers other than between 06:00 and 23:00hrs on Mondays to Saturdays (including bank holidays) and between 07:00 and 21:00hrs on Sundays. All associated deliveries and servicing shall only be undertaken during these times and within the thirty-minute period either side of these times.

   Reason: In accordance with saved policy EN16 of the Adopted Amber Valley Borough Local Plan 2006.

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8. Notwithstanding the details shown on Drawing number 210147 PL_06 :
a) Prior to construction work above ground being commenced, details of any soft landscaping works shall be submitted to and approved in writing by the Local Planning Authority. Details shall include: i. planting plans; ii. written specifications (including cultivation and other operations associated with tree/plant and grass establishment); and iii. schedules of trees/plants, noting species, sizes and proposed numbers/densities where appropriate.
b) Before the end of the first planting season following occupation/first use of any part of the development hereby permitted all soft landscaping shall be carried out and completed in accordance with the approved soft landscaping details.
c) Any trees or plants which within a period of five years from the completion of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure the satisfactory overall appearance of the completed development in accordance with policy LS3 of the Adopted Amber Valley Borough Local Plan 2006.

Notes

Attention is drawn to the attached notes:

1 Development Low Risk Area - Standing Advice

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority

2 Throughout the period of the development vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud or other extraneous material on the public highway.

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3 Pursuant to Section 127 of the Highways Act 1980, no work may commence within the limits of the public highway to close any redundant accesses and to reinstate the footway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works. Advice regarding the technical, legal, administrative and financial processes involved in Section 127 Agreements may be obtained by contacting this Authority via email - highways.hub@derbyshire.gov.uk The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 127 Agreement.

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:

LS3 - Design
TP1 - Impact on the Transport Network
TP6 - Parking
EN16 - Pollution
EN18 - Derelict, Unstable And Contaminated Land
TC5 - Development in out of centre locations
ER4 - Industrial and storage development

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

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".**

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.**