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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/2021/1053**) which was valid on the 18 October 2021 for permission for **Variation of condition 2, 5 and 6 of AVA/2020/1187**
at 19 Church Street Heanor Derbyshire

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 development shall be carried out in accordance with the details contained in the submitted plans and documents listed below:

   - Site Location Plan and block plan drawing no. DE757AH-amc-03.2-xx-dr-A 0002;
   - Design and Access Statement;
   - Coal Mining Risk Assessment;
   - Trentside Geotechnical Testing Report;
   - Plans proposed drawing no. DE757AH-amc-03.2-xx-dr-A 0014 Rev C; and,
   - Plans proposed drawing no. DE757AH-amc-03.2-xx-dr-A 0015 Rev C.

   Reason: In order to define the permission.

3. No development shall commence until;

   a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and
   b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

   The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

   Reason: This pre-commencement condition is required to ensure that effective remedial or mitigating measures are taken to treat, control or contain unstable land in accordance with saved policy EN18 of the Adopted Amber Valley Borough Local Plan 2006 and paragraphs 178 and 179 of the National Planning Policy Framework.

4. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

   Reason: To ensure that effective remedial or mitigating measures have been undertaken to treat, control or contain unstable land in accordance with saved policy EN18 of the Adopted Amber Valley Borough Local Plan 2006 and paragraphs 178 and 179 of the National Planning Policy Framework.

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5. Prior to the occupation of the hereby approved development, a new vehicular and pedestrian access shall be created to Church Street in accordance with the application drawing, laid out, constructed and provided with visibility splays of 2.4m x 47m in both directions. The area in advance of the sightlines being maintained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to nearside carriageway channel level.

   Reason: In the interest of highway safety in accordance with saved policies TP1 and TP6 of the Adopted Amber Valley Borough Local Plan 2006.

6. Prior to the occupation of the hereby approved development, the existing vehicular and pedestrian access to Church Street shall be permanently closed with a physical barrier and the existing vehicle crossover reinstated as footway in a manner to be agreed in writing with the Local Planning Authority in consultation with the Highway Authority.

   Reason: In the interest of highway safety in accordance with saved policies TP1 and TP6 of the Adopted Amber Valley Borough Local Plan 2006.

7. The access, the subject of condition 1 above, shall not be taken into use until 2m x 2m x 45° pedestrian intervisibility splays have been provided on either side of the access at the back of the footway, the splay area being maintained throughout the life of the development clear of any object greater than 0.6m in height relative to footway level.

   Reason: In the interest of highway safety in accordance with saved policies TP1 and TP6 of the Adopted Amber Valley Borough Local Plan 2006.

8. The premises, the subject of the application, shall not be occupied until space has been provided within the application site in accordance with the application drawings for the parking and manoeuvring of vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use. The spaces shall be permanently marked out on site and maintained as such for the life of the development.

   Reason: In the interest of highway safety in accordance with saved policies TP1 and TP6 of the Adopted Amber Valley Borough Local Plan 2006.

9. There shall be no gates or other barriers on the access.

   Reason: In the interest of highway safety in accordance with saved policies TP1 and TP6 of the Adopted Amber Valley Borough Local Plan 2006.

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10. i. Within 3 months of the date of this permission appropriate ground gas mitigation measures to be installed in the building(s) shall been submitted to and approved in writing by the Local Planning Authority.
ii. The approved gas mitigation measures shall be installed and documented in a Verification Report which shall be submitted to and accepted in writing by the Local Planning Authority. This requirement (ii) shall be fulfilled prior to the occupation of any structure.
The remedial mitigation should be carried out or assessed in accordance with the guidance contained in BS8485:2015 "Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings.

    Reason: To ensure that appropriate mitigation is installed as the site has been identified as being potentially at risk from offsite ground gases and to protect human health and buildings in accordance with saved policy EN18 of the Adopted Amber Valley Borough Local Plan 2006 and paragraphs 178 and 179 of the National Planning Policy Framework.

11. The hereby approved development shall be carried out with the materials annotated on drawing no. DE757AH-amc-03.2-xx-dr-A 0015 Rev C, as follows:

    - Off-white render;
    - Off-white cladding;
    - Masonry to match existing; and,
    - Tiles to match existing.

    Reason : For the avoidance of doubt and to ensure the satisfactory appearance of the completed development in accordance with saved policies LS3 and H12 of the Adopted Amber Valley Borough Local Plan 2006.

12. Prior to the occupation of the hereby approved development, full details of the proposed treatment of the boundary(ies) of the site shall be submitted to and approved by the Local Planning Authority. Any agreed scheme shall be implemented in full in accordance with a phasing scheme prior to the occupation of the development.

    Reason: To ensure both the satisfactory appearance of the completed development and an adequate level of amenity for the proposed dwellings in accordance with saved policy H12 of the Adopted Amber Valley Borough Local Plan 2006.

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13. Prior to the occupation of the hereby approved development a scheme of hard and soft landscaping shall be submitted to and approved by the Local Planning Authority. All planting, seeding or turfing indicated on the approved landscaping scheme shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and 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 and to help assimilate the new development into its surroundings in accordance with saved policy H12 of the Adopted Amber Valley Borough Local Plan 2006.

Notes

Attention is drawn to the attached notes:

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
H3 - Housing development within settlements
H12 - Design and amenity considerations
EN18 - Derelict, Unstable And Contaminated Land
TP1 - Impact on the Transport Network
TP6 - Parking

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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, sunlight/daylight, 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.**