Simon Gladwin
Executive Director (Operations)
Development Management

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

Mr Darren Thorpe
Fletcher Construction Midlands Ltd
Woodside
Derby Road
Mansfield
NG18 5BJ

Mr Darron Waldram
Pelham Architects
12-14 Pelham Road
Sherwood Rise
Nottingham
NG5 1AP

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/2021/0640**) which was valid on the 3 June 2021 for permission for **Variation of conditions 2, 5 and 6 in relation to AVA/2020/0228 to amend boundary treatment to plot 20 at Land At Gregg Avenue 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 **GRANTED subject to the following conditions:**

Conditions/Reasons

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

   Site Location Plan drawing no. 2430/P100/C received 3 July 2018;
   Proposed Site Plan drawing no. 2430/P102/F received 25 June 2020;
   Proposed Plots 1-3 drawing no. 2430/P200B received 3 July 2018;
   Proposed Plots 4-7 drawing no. 2430/P201D received 20 December 2018;
   Proposed Plots 8 drawing no. 2430/P202C received 20 December 2018;
   Proposed Plots 9-17 drawing no. 2430/P203D received 20 December 2018;
   Proposed Plots 18-20 drawing no. 2430/P204C received 20 December 2018; and,
   Proposed Cross Sections drawing no. 2430/P205D received 20 December 2018.

   Reason: In order to define the permission.

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2. The finished floor levels of the hereby approved development shall be constructed in accordance with site plan (drawing no. 200 Rev P2) and proposed Cross Section plan (drawing no. 2430/P 205D).

   Reason: To safeguard the privacy and amenities of the occupiers of adjoining properties in accordance with saved policies LS3 and H12 of the Adopted Amber Valley Borough Local Plan 2006.

3. The development shall be constructed in the materials as set out in the Materials drawing no. 2430/P/208/B 11.06.2020. The development shall be carried out with those materials and maintained as such in perpetuity.

   Reason: 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.

4. The boundary treatment scheme as shown on hard landscaping plan (drawing no. 2430/P207 / C) and boundary enclosures plan (drawing no. 2430/P206/C), shall be implemented in full 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 policies LS3 and H12 of the Adopted Amber Valley Borough Local Plan 2006.

5. The scheme of hard and soft landscaping as shown on submitted hard landscaping plan (drawing no. 2430/P207 / C) and soft landscaping plans (drawing no. GA.AMC.001/002/003/004/005), 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. Any trees or plants that are found to be dead, dying, severely damaged or diseased within five years of the completion of the building works OR five years of the carrying out of the landscaping scheme (whichever is later), shall be replaced in the next planting season by specimens of similar size and species in the first suitable planting season.

   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 EN8 of the Adopted Amber Valley Borough Local Plan 2006.

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6. Space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicles, laid out and constructed in accordance with the details shown on drawing no. 21-01-001. The details shown on drawing no. 21-01-001 shall be retained free from any impediment to their designated use throughout the construction period.

   Reason: In the interests of highway safety in accordance with saved policies TP1 and H12 of the adopted Amber Valley Borough Local Plan 2006.

7. The proposed access shall be laid out in accordance with the application drawing 2430/P102/F and provided with visibility sightlines extending from a point 2.4 metres from the carriageway edge, measured along the centreline of the access, for a distance of 43 metres in the critical direction and 2.4m x to the end of the cul-de-sac in the non-critical direction measured along the nearside carriageway edge. The land in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1m in height (0.6m in the case of vegetation) above ground level.

   Reason: In the interests of highway safety in accordance with saved policies TP1 and H12 of the adopted Amber Valley Borough Local Plan 2006.

8. Throughout the period of construction, wheel washing facilities shall be provided within the site and used to prevent the deposition of mud and other extraneous materials on the public highway.

   Reason: In the interests of highway safety in accordance with saved policies TP1 and H12 of the adopted Amber Valley Borough Local Plan 2006.

9. The new dwellings shall not be occupied until the proposed new estate street between each respective plot and the existing public highway has been laid out in accordance with the approved application drawings and constructed to base level and drained in accordance to conform to the County Council's design guide.

   Reason: In the interests of highway safety in accordance with saved policies TP1 and H12 of the adopted Amber Valley Borough Local Plan 2006.

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10. The proposed access to Gregg Avenue shall be no steeper than 1:30 for the first 10m from the nearside highway boundary and 1:12 thereafter. Individual drives shall not exceed a maximum longitudinal gradient of 1:12.

    Reason: In the interests of highway safety in accordance with saved policies TP1 and H12 of the adopted Amber Valley Borough Local Plan 2006.

11. No part of the development shall be occupied until the areas for the storage of bins and collection of waste have been implemented in full in accordance with drawing no. 2430/P102/F. The facilities shall be retained for their designated purposes at all times thereafter.

    Reason: In the interests of highway safety in accordance with saved policies TP1 and H12 of the adopted Amber Valley Borough Local Plan 2006.

12. Prior to occupation of any dwelling details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of water from private/individual driveways onto the highway. The approved scheme shall be undertaken and completed prior to occupation of any dwelling and retained as such thereafter.

    Reason: In the interests of highway safety in accordance with saved policies TP1 and H12 of the adopted Amber Valley Borough Local Plan 2006.

13. The hereby approved development shall be carried out in accordance with:

    a) the details agreed within the submitted Geodyne Ground Gas Verification Plan, dated 21 August 2019, ref: D39157.
    b) Installation of gas protection measures shall be undertaken in accordance with the agreed Remediation Strategy.
    c) Verification of the gas protection measures shall be undertaken in accordance with the Verification Plan set out in the agreed Remediation Strategy.
    d) Prior to occupation a Verification Report must be produced in line with the agreed Remediation Strategy and Verification Plan. All aspects of the Remediation Strategy must be addressed in the Verification Report along with full details and justification of any deviation.

    Reason: In the interests of ensuring gas protection measures are incorporated into the development in accordance with saved policy EN18 of the Adopted Amber Valley Borough Local Plan 2006.

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14. If any part of the site is to be raised or filled using materials brought from outside the application site, the developer shall first provide documentary evidence that all such materials are free from levels of contamination that would be in excess of current appropriate standards. All documentary evidence and/or sampling methodology and testing results shall be submitted to and agreed in writing by the Local Planning Authority prior to any material being brought onto site. No such materials shall be imported without prior approval.

    Reason: In the interests of safeguarding the proposed development and adjacent properties from the possible harmful effects of development affecting contaminated land, in accordance with saved policy EN18 of the Adopted Amber Valley Borough Local Plan 2006.

15. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be undertaken, and where remediation is necessary, a remediation scheme shall be submitted to and approved by the Local Planning Authority. Following completion of the measures identified in the approved remediation scheme, a verification report shall be submitted to and approved by the Local Planning Authority prior to use of the site commencing.

    Reason: In the interests of safeguarding the proposed development and adjacent properties from the possible harmful effects of development affecting contaminated land, in accordance with saved policy EN18 of the Adopted Amber Valley Borough Local Plan 2006.

16. The sustainable drainage scheme for the hereby approved development shall be constructed and maintained in accordance with the following documents:

    - Proposed Drainage Storm Water Catchment - Drawing Number 305 Rev P7
    - Land at Gregg Avenue, Heanor Report on Drainage management and maintenance Planning application AVA/2018/0661

    Reason: To ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, sufficient detail of the construction, operation and maintenance/management of the sustainable drainage systems are provided, that surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest possible priority destination on the hierarchy of drainage options in accordance with saved policy EN15 of the Adopted Amber Valley Borough Local Plan 2006.

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17. The hereby approved development shall be carried out in accordance with the submitted Construction Management Plan dated 20 January 2020, which details how additional surface water run-off from the site will be avoided during the construction phase. The approved system shall be operating to the satisfaction of the Local Planning Authority before the commencement of any works.

    Reason: To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development in accordance with saved policy EN15 of the Adopted Amber Valley Borough Local Plan 2006.

18. The hereby approved development shall be carried out in accordance with the details of the pond design and surrounding landscape, as shown on the Wildlife Area drawing no. GA.AMC 005. The approved scheme shall be implemented in full in accordance with the approved details, prior to the occupation of the development.

    Reason: To ensure the development does not have an adverse impact upon species specifically protected under the schedules of the Wildlife and Countryside Act 1981 and to enhance the ecological value of the site to improve the biodiversity of the local area in accordance with saved policy EN13 of the Adopted Amber Valley Borough Local Plan 2006.

19. The scheme of biodiversity enhancement (namely the incorporation of bat roost features and bird boxes within the development) as shown on the Bat and Bird Box Specification Plan Fig 01 Rev A, shall be implemented in full prior to the first occupation of the dwellings and retained thereafter.

    Reason: To ensure the development does not have an adverse impact upon species specifically protected under the schedules of the Wildlife and Countryside Act 1981 and to enhance the ecological value of the site to improve the biodiversity of the local area in accordance with saved policy EN13 of the Adopted Amber Valley Borough Local Plan 2006.

20. No dwelling shall be occupied until the proposed parking spaces have been provided in accordance with the applications drawing, constructed and drained in accordance with a scheme approved by the Local Planning Authority, and maintained thereafter free from any impediment to its designated use.

    Reason: In the interests of highway safety in accordance with saved policies TP1, TP6 and H12 of the adopted Amber Valley Borough Local Plan 2006.

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21. Notwithstanding the hereby approved plans, prior to occupation of the first dwelling a scheme for the proposed boundary treatment between the pond and the highway shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be erected in accordance with the agreed details prior to occupation of the first dwelling and maintained for the life of the development.

    Reason: In the interests of highway safety in accordance with saved policies TP1 and 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
H1 - Housing sites
H12 - Design and amenity considerations
TP1 - Impact on the Transport Network
TP6 - Parking
EN8 - Landscape Features
EN13 - Nature Conservation
EN15 - Development and Flood Risk
EN18 - Derelict, Unstable And Contaminated Land

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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, 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.**