Simon Gladwin
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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 guidance and policy and the saved policies of the Adopted Amber Valley Borough Local Plan 2006, and with reference to your application (**Office Code: AVA/2021/1202**) which was valid on the 12 November 2021 for permission for **Part change of use of existing retail unit to create takeaway at 53 - 55 Chapel Street Chapel Street Kilburn**

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.

2. The development hereby permitted shall be carried out only in accordance with the following:

   Planning application form
   KJ/005-21Location plan and Block Plan
   KJ/005-21 Existing and proposed front elevation
   KJ/005-21 Existing and proposed side elevation
   KJ/001-21 Existing ground floor plan

Date : 5 August 2022

Signed

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KJ/001-21 Rev A Proposed ground floor plan (with fryers and kebab machines omitted)
KJ/007-21 Proposed air extract layout

Reason: To define the terms of the permission.

3. The use hereby permitted shall not be open to customers, and no deliveries shall be taken at or despatched from the site, at any times other than between 11:00 and 21:30 hours on Mondays to Saturdays; and between 15:00 and 21:30 hours on Sundays and bank holidays. No customers shall be served after 21:30 hours and the kitchen extraction system shall be switched off no later than 21:45 hours.

   Reason: In the interests of protecting residential amenity in accordance with saved policy EN16 of the Adopted Amber Valley Borough Local Plan 2006.

4. A grease trap/filtration system (or a suitable alternative) shall be installed in the drainage system to remove fats, oils, grease and solid matter from the waste water before it leaves the premises. The equipment shall be installed, operated and maintained in accordance with the manufacturer's instructions and retained for so long as the use continues.

   Reason: In the interests of protecting residential amenity in accordance with saved policy EN16 of the Adopted Amber Valley Borough Local Plan 2006.

5. Before the use hereby permitted begins, equipment to control the emission of fumes and smell, including the level and character of associated extract/intake noise emissions, from the premises shall be installed.

   The system shall be designed, installed, operated and maintained at all times to achieve a 'Low Impact Risk' when odour nuisance is assessed in accordance with EMAQ's best practice document: 'Control of odour and noise from commercial kitchen exhaust systems' (06.05.2022).

   Records documenting the level of maintenance and servicing shall be kept, and available for inspection, for at least the preceding 2 years.

   Reason: In the interests of protecting residential amenity in accordance with saved policy EN16 of the Adopted Amber Valley Borough Local Plan 2006.

6. The facing and roofing materials to be used in the development hereby permitted shall match as closely as possible those used in the construction of the existing building.

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Reason: To ensure the satisfactory 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 Advisory Note: condition 4
Disposing of fats, oils and grease (FOG) in drainage systems can cause the build-up of fatty deposits in drains and sewers, leading to blocked pipes (particularly in old properties where the pipework is inadequate or damaged), bad smells and flooding. Guidance in both the Building Regulations 2010 (Approved Document H: 'Drainage and waste disposal', 2015) and from Severn Trent Water recommend that drainage serving kitchens in commercial hot food premises is fitted with a grease separator or other effective means of removal to collect and separate grease during cooking and washing-up. Further advice on the location, size and suitability of grease traps, as well as the legal requirements, can be obtained from Severn Trent Water at:
https://www.stwater.co.uk/my-supply/waste-water/looking-after-your-sewers/how-to-avoid-blockages-in-a-commercial-kitchen/

Advisory Note: Condition 5
If the nature of the cooking changes over time, or if regular maintenance is not undertaken, the risk of nuisance odour/noise could also increase, rendering the system inadequate and resulting in enforcement action under environmental health legislation.

Advisory Note - Sound insulation
Where a commercial building is sub-divided and adjoins noise-sensitive premises, it is important to ensure that shared dividing structures provide reasonable resistance to the transmission of airborne sound via walls, floors and stairs, and to impact sound via floors and stairs, to minimise the impact of noise on any adjoining properties where this could result in future enforcement action in response to complaint and the substantial cost of remedying inadequate sound insulation.
Noisy kitchen equipment/activities, such as cooking extraction systems and refrigeration/chiller units, should not be located on or near to party walls/structures to minimise the transmission of noise.
It is important to note that Building Regulations may not apply and that compliance with the Regulations may not be sufficient to prevent noise complaints, so specialist acoustic advice should also be sought.

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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
TC8 - Food and Drink
EN16 - Pollution
TP1 - Impact on the Transport Network
TP6 - Parking

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.**