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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/2022/0686**) which was valid on the 29 July 2022 for permission for **Proposed de-construction of the Derby Road stone wall to existing footpath level, followed by like-for-like re-building up to circa 3m in height (to tie in with adjacent pitched coping stone to the driveway of the grade 2 listed Canteen building) at Milford Mills Development Derby Road Milford**

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 proposed works would have an adverse impact on the significance of the wall as a curtilage listed structure, which forms an integral part of the former Milford Mills site. The significance of the directly impacted buildings would not be preserved, through the wall being newly re-built, and at a height half that of its present scale, which would not maintain the relative settings of the buildings and site overall, but which would result in harm to the character, appearance and fabric of the curtilage listed structure. Furthermore, there is no clear evidence that the building is wholly beyond repair and that every effort has been made to continue its present arrangement.

   In addition to the listed wall itself the proposal would negatively impact on the setting of nearby listed buildings, including the Dye House, Mill Chimney, Canteen, Milford Bridge, Chevin Alley and Milford School.

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The proposal is therefore contrary to:-

a) saved policy EN23 of the Adopted Amber Valley Borough Local Plan 2006, which states that development which would result in the total or substantial demolition of Listed Buildings will only be permitted exceptionally and where there is clear evidence that the building is wholly beyond repair

b) saved policy EN24 of the Adopted Amber Valley Borough Local Plan 2006 which states that development will only be permitted where proposals contribute to the preservation of the listed building and its setting, having regards to the elements which make up its special interest, including the character, appearance, scale and its original function and

c) Part 16 of the National Planning Policy Framework (NPPF), which seeks to preserve or enhance heritage assets.

There are no sufficient public benefits to outweigh the identified harm to the Listed Building, other nearby Listed Buildings and their settings

The proposal is contrary to 66 (1) (Listed Buildings and Conservation Areas) Act 1990 which has regard to the desirability to preserve a listed building and its setting.

2. The proposal, by virtue of loss of authenticity and through its change in appearance, would result in an adverse impact on character, appearance and significance of the Belper and Milford Conservation Area, and would not preserve and enhance, but reduce the site's contribution to Outstanding Universal Value of the Derwent Valley Mills World Heritage Site.

The wall at a significantly reduced height from that existing, would open up the views from the wider site and the new development beyond, significantly and detrimentally changing the character of the locality by exposing new residential development and inappropriately providing a domestic character of the form of the row of houses within the site, which by virtue of its greater visibility would compound the loss of character to the locality.

The proposal is therefore contrary to:-

a) Saved policies LS3, EN27 and EN29 of the Adopted Amber Valley Borough Local Plan 2006, which state that development will only be permitted where proposals respect the character of the locality in terms of the scale and nature of development, its layout, density, height, massing, architectural style, materials and landscaping, and that planning permission will only be granted for proposals within

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the Derwent Valley Mills World Heritage Site where they do not impact on the views into or out of the site, and for proposals which preserve or enhance the character and appearance of the Conservation Area

b) Policies NPP1 and NP11 of the Belper Neighbourhood Plan, which seek to protect and conserve the World Heritage Site, and preserve or enhance the Conservation Area and

c) Part 12 and Part 16 of the National Planning Policy Framework, which seeks to promote good design, and preserve or enhancement heritage assets.

There are no sufficient public benefits to outweigh the identified harm to the Belper and Milford Conservation Area or to the Derwent Valley Mills World Heritage Site.

The proposal is contrary to 72 (1) (Listed Buildings and Conservation Areas) Act 1990 which has regard to the desirability of preserving or enhancing the character or appearance of the area.

3. The proposal does not meet the objectives of sustainability in terms of the environmental considerations as set out in paragraph 8 of the NPPF, and the application of policies within the Framework that protects areas of importance provides a clear reason to refuse the application the application in accordance with paragraph 11 d) i 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). Dialogue between the agent and Local Planning Authority has been undertaken, which has enabled the processing of information. However, the fundamental in principle issues have failed to be resolved.

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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. **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.**