Simon Gladwin
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Development Management

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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/2022/0423**) which was valid on the 19 May 2022 for permission for **Demolition of garage and construction of three detached dwellings at Frankerbrook Garage 92 Ashbourne Road Cowers Lane**

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

   Site Location Plan and Street Scene drawing number A.14 rev A3
   Proposed Layout Plan drawing number A.16 (excluding Plot 4)
   Plots 1 to 3 Floor Plans drawing number A.17 rev A.3
   Plots 1 to 3 Elevations drawing number A.15 rev A.3

Date : 29 November 2022

Signed

S Gladwin

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Executive Director (Operations)

Reason: In order to define the permission.

3. Notwithstanding the submitted details, this permission does not relate to the development of plot 4, approved under planning reference AVA/2015/0210.

   Reason: For the avoidance of doubt and to define the terms of this permission.

4. Notwithstanding the details submitted no development shall take place to the external elevations or roof of the dwellings, including windows and doors, until there has been submitted to and approved in writing by the Local Planning Authority details and/or samples of the materials and finishes to be used for the external elevations and roof of the proposal, and the development shall be carried out with those materials.

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

5. No work shall commence to the boundary treatment of the site until full details of the proposed treatment of the boundaries have been submitted to and approved by the Local Planning Authority. Any agreed scheme shall be implemented in full in accordance prior to the occupation of the respective dwelling and maintained as such in perpetuity.

   Reason: To ensure both the satisfactory appearance of the completed development and an adequate level of amenity for the proposed dwellings in accordance with policies LS3 and H12 of the Adopted Amber Valley Borough Local Plan 2006.

6. Prior to occupation of the hereby approved dwellings, a landscaping scheme shall be submitted to and be approved by the Local Planning Authority. Any trees or plants shall be planted in accordance with the agreed landscaping scheme in the first planting season and any trees/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 policies LS3, EN8 and H12 of the Adopted Amber Valley Borough Local Plan 2006.

7. Prior to occupation of the hereby approved dwellings, the existing access to the A517 Ashbourne Road shall be modified in accordance with the submitted application drawing A.14 Rev A3, laid out, constructed and provided with 2.4m x 103m visibility

Date : 29 November 2022 Signed

S Gladwin

Simon Gladwin
Executive Director (Operations)

splays in both directions, the area in advance of the sightlines being maintained clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

Reason: In the interests of highway safety, as required by policy TP1 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 submitted application drawing number A.14 Rev A3 for the parking and manoeuvring of residents' 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, as required by policy TP6 of the Adopted Amber Valley Borough Local Plan 2006.

9. There shall be no gates or other barriers within 5m of the nearside highway boundary and any gates shall open inwards only.

   Reason: In the interests of highway safety, as required by policy TP1 of the Adopted Amber Valley Borough Local Plan 2006.

10. a) The development shall be undertaken in strict compliance with the requirements contained within the EMCUS Geo-environmental Remediation Strategy, dated April 2019, ref: MJH/J1417A/D3/1RMS (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.

Date : 29 November 2022

Signed

S Gladwin

Simon Gladwin
Executive Director (Operations)

Reason: In order to ensure the safety of the development, in accordance with in accordance with policy EN18 of the Adopted Amber Valley Borough Local Plan 2006 and paragraphs 184 and 185 of the National Planning Policy Framework.

11. Prior to the import of soils or other fill materials from outside the application site, documentary evidence that the material is free from contamination shall be submitted to and agreed in writing by the Local Planning Authority. No such materials shall be imported without prior approval.

    Reason: In order to ensure the safety of the development, in accordance with in accordance with policy EN18 of the Adopted Amber Valley Borough Local Plan 2006 and paragraphs 184 and 185 of the National Planning Policy Framework.

12. The development hereby permitted shall not commence until such time as a scheme to deal with both foul and surface water drainage has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented fully as approved.

    Reason: To ensure that the proposed surface water and foul water drainage scheme does not have a negative impact on controlled waters, as required by policies EN15 and EN18 of the Adopted Amber Valley Borough Local Plan 2006.

Notes

Attention is drawn to the attached notes:

1 The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway 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 278 Agreements may be obtained by contacting this Authority via email - es.devconprocess@derbyshire.gov.uk . The applicant is advised to allow

Date : 29 November 2022 Signed

S Gladwin

Simon Gladwin
Executive Director (Operations)

approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.

2 The developer should seek professional advice if they suspect Asbestos Containing Materials (ACM) are present on any building to be demolished or altered. The developer/land owner/ land manager may be liable if they fail to identify and manage any ACM appropriately.
More information regarding ACM can be found on the Health and Safety Executives web page:
http://www.hse.gov.uk/ASBESTOS/essentials/index.ht

3 The council encourage the developers to help to meet the Government's commitments to achieve net-zero carbon emissions by 2050, and to meet the NPPF's environmental objective of mitigating and adapting to climate change, including moving to a low carbon economy, through the inclusion of on-site renewable energy generation, the de-carbonising of heating systems and enhanced levels of insulation.

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
H4 - Housing development within settlements
H12 - Design and amenity considerations
TP1 - Impact on the Transport Network
TP6 - Parking
EN15 - Development and Flood Risk
EN18 - Derelict, Unstable And Contaminated Land
EN8 - Landscape Features

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

Date : 29 November 2022

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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.

Whilst the approval of this application would represent a departure from the Local Plan, the other material considerations are significant and in this instance outweigh the presumption against residential development on greenfield land and provide justification to support the proposal. The development is acceptable in terms of scale and character, makes efficient use of the land, a satisfactory access to the highway can be provided, there is a limited impact on the amenity of the area and there is no significant adverse impact on landscape features. The development will also contribute to meeting the overall housing requirement in the Borough.

Date : 29 November 2022

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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.