Simon Gladwin
Executive Director (Operations)
Development Management

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Garner Holdings Ltd
C/O The Agent

Richard Pigott
Planning Design Practice Ltd
Ground Floor, Suite 4
Woburn House
Vernon Gate
Derby
DE1 1UL
Undefined

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/2022/0143**) which was valid on the 22 February 2022 for permission for **Application for approval of reserved matters for the access, appearance, landscaping, layout and scale of 41 dwellings following Outline Approval AVA/2017/1264 at Land To West Of Denby Bank Denby Bank Marehay**

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 to which this permission relates shall be begun not later than the expiration of two years from the final approval of the reserved matters, or in the case of approval on different dates, the final approval of the last such matter to be approved.

   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 listed below and with the conditions attached to this consent:

   Phase 2 Site Layout Plan - drawing P01 Rev J

   Phase 2 House Types - drawings P10 Rev A, P11, P12 Rev A, P13, P14, P15 Rev A, P16, P17, P18 Rev A, P19 Rev A, P20, P21 Rev B, P22 Rev B

   Site Plan with Topography - drawing P03 dated November 2022

   Compensation Plan - drawing MAN.1561.001.EC.D.002 dated March 2022

   Reason: In order to define the permission.

3. No development shall commence until drainage plans for the disposal of surface water have been submitted to and approved by the Local Planning Authority. The agreed scheme shall be implemented fully in accordance with the approved details prior to completion of the development and maintained in perpetuity.

   Reason: To ensure an appropriate drainage scheme is secured for the development in accordance with Policy EN15 of the Adopted Amber Valley Borough Local Plan 2006.

4. The ecology compensation area as shown on drawing MAN.1561.001.EC.D.002 prepared by Garner Holdings dated March 2022 shall be implemented in full prior to the first occupation of the dwelling. Once provided the compensation scheme shall be managed in perpetuity in accordance with the agreed maintenance scheme.

   Reason: To secure a net-gain for biodiversity in accordance with Paragraph 174 (d) of the National Planning Policy Framework.

5. Notwithstanding the submitted details, no development shall take place to the external materials 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.

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6. Notwithstanding the submitted details, no work shall commence to the boundaries of the site until full details of the proposed treatment of the boundaries of the site has been 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 policy LS3 and H12 of the Adopted Amber Valley Borough Local Plan 2006.

7. Prior to first occupation, 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 policy H12 of the Adopted Amber Valley Borough Local Plan 2006.

8. All plots shall be protected from industrial/commercial and road traffic noise such that the following noise levels are not exceeded:

   - 55dB LAeq,16 hour (free field) in outdoor living areas between 07:00 and 23:00 hours;

   - 35dB LAeq,16 hour inside living rooms and bedrooms between 07:00 and 23:00 hours;

   - 40dB LAeq,16 hour inside dining rooms/areas between 07:00 and 23:00 hours;

   - 30dB LAeq,8hour, and 45dB LAmax,fast more than 10 times a night, inside bedrooms between 23:00 and 07:00 hours; and

   At plots where industrial and/or commercial noise is dominant (i.e. where the impact would be rated as adverse or greater, subject to context, as defined by BS 4142:2014), it shall be ensured that, when assessed in accordance with British Standard 4142:2014+A1:2019 'Methods for rating and assessing industrial and commercial sound', the rating level does not exceed the background sound level (an indication of the specific sound source having a low impact, depending on context).

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Development shall not begin until the final plot-by-plot noise mitigation measures necessary to comply with the above have been submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with those approved measures and under the supervision of an acoustic engineer.

In buildings where windows must be closed to achieve the above levels, adequate acoustically treated ventilation and cooling shall be provided. The developer shall notify prospective occupants of the noise mitigation installed and, where necessary, of the need to keep windows and doors closed (using the alternative ventilation and cooling provided), and ensure its maintenance, to obtain the full benefit.

A further acoustic report verifying compliance with the above noise levels at agreed representative plots, determined by measurement, shall be submitted to, and approved in writing by, the Local Planning Authority before occupation of any of the plots.

Should the proposals for the site layout, levels or building design/construction alter from that on which the agreed noise mitigation measures are based, these measures shall be reviewed and re-submitted for the approval of the Local Planning Authority before implementation.

Reason: To ensure all plots are provided with sufficient protection from adverse noise impacts, in the interests of residential amenity in accordance with Policy EN16 of the Adopted Amber Valley Borough Local Plan 2006.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order) no development relating to Class A, B, C, D, E of Part 1 of Schedule 2 (erection of extensions, porches, roof alterations and other roof alterations and incidental outbuildings) shall be undertaken without the prior written approval of the Local Planning Authority.

Reason: To protect the character and visual amenities of the locality in accordance with policies LS3 and H12 of the Adopted Amber Valley Borough Local Plan 2006.

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10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order) no windows (other than those approved by this permission) shall be formed on the elevation(s) of the hereby approved development without the prior written approval of the Local Planning Authority.

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

11. Before any other operations are commenced (excluding demolition/ site clearance), space shall be provided within the site curtilage for storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives and visitors vehicles, laid out and constructed in accordance with detailed designs to be first submitted to and approved in writing by the Local Planning Authority and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.

    Reason: This is a pre-commencement of development necessary in the interests of highway safety in accordance with Policy TC1 of the Adopted Amber Valley Borough Local Plan 2006.

12. Before any other operations are commenced (excluding demolition/ site clearance) a temporary access for construction purposes shall be formed to Denby Bank, laid out, constructed accordance with detailed designs to be first submitted to and approved in writing by the Local Planning Authority, and maintained in accordance with the approved scheme throughout the contract period free from any impediment to its designated use.

    Reason: This is a pre-commencement of development necessary in the interests of highway safety in accordance with Policy TC1 of the Adopted Amber Valley Borough Local Plan 2006.

13. Throughout the period of construction, wheel washing facilities shall be provided within the site fully in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority.

    Reason: To prevent the deposition of mud and other extraneous materials on the public highway in the interests of highway safety in accordance with Policy TP1 of the Adopted Amber Valley Borough Local Plan 2006.

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14. No dwelling shall be occupied until the proposed new estate streets between each respective plot and the existing public highway has been laid out fully in accordance with the application drawings to conform to the County Council's Guidance 'Delivering Streets and Places' constructed to base level, drained and lit in accordance with the County Council's specification for new housing development roads.

    Reason: In the interests of highway safety in accordance with Policy TP1 of the Adopted Amber Valley Borough Local Plan 2006.

15. Before the commencement of any operations on site (excluding demolition/ site clearance) a scheme for the disposal of highway surface water via a positive gravity-fed system, discharging to an outfall on public sewer, highway drain or watercourse, shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented fully in accordance with the approved details prior to completion of the development.

    Reason: In the interests of highway safety in accordance with Policy TP1 of the Adopted Amber Valley Borough Local Plan 2006.

16. No dwelling shall be occupied until space has been provided within the application site in accordance with the application drawings for the parking and manoeuvring of residents and service and delivery 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 in accordance with Policy TP6 of the Adopted Amber Valley Borough Local Plan 2006.

Notes

Attention is drawn to the attached notes:

1 Severn Trent Water advise that although statutory sewer records do not show any public sewers within the site area specified, there may be sewers that have been recently adopted under The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection by Severn Trent Water Ltd and may not be built close to, directly over or be diverted without consent and the applicant/developer is advised to contact Severn Trent Water to discuss the proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.

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2 The Coal Authority advises the Coal Authority's Environment Team should be contacted at EnvironmentMail@coal.gov.uk if any works are proposed that would affect the existing Denby Hole Borehole Manhole chamber associated with the monitoring point, which is used by the Coal Authority to make routine measurements of water and gas.

3 Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department - Place at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website

https://www.derbyshire.gov.uk/transport-roads/roads-traffic/licences-enforcements/vehicular-access/vehicle-accesses-crossovers-and-dropped-kerbs.aspx

E-mail highways.hub@derbyshire.gov.uk or

Telephone Call Derbyshire on 01629 533190.

4 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.

5 Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway, measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

6 Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

7 With regards to condition 14, the relevant guidance can be found at:

https://www.derbyshire.gov.uk/transport-roads/roads-traffic/development-control/highwaysdevelopment-control.aspx

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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:

ER3 - Business and industrial development
EN2 - Green Belt
EN7 - Landscape Character Areas
EN8 - Landscape Features
EN13 - Nature Conservation
EN15 - Development and Flood Risk
EN16 - Pollution
EN17 - Pollution
EN18 - Derelict, Unstable And Contaminated Land
EN31 - Archaeological Interest
H3 - Housing development within settlements
H10 - Urban affordable housing
H12 - Design and amenity considerations
LC1 - Provision of outdoor playing space
LC2 - Childrens Play Areas
LS1 - Sustainability criteria
LS2 - Community Safety
LS3 - Design
LS4 - Accessibility
TP1 - Impact on the Transport Network
TP2 - Footpath, Cycleway, Bridleway 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 principle of development has been established by the outline consent 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.**