Simon Gladwin
Executive Director (Operations)
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/2021/0447**) which was valid on the 20 April 2021 for permission for **Reserved matters application for a restaurant (use class E) with drive thru, including highway and drainage infrastructure following the approval of outline application AVA/2014/1154 at Lily Street Farm Derby Road Swanwick**

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.

2. The development shall be undertaken in accordance with the following:

   Site location plan;

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Ground Floor GA, Roof Plan and Proposed Elevations drawing no. 201837-PEV-03-ZZ-DR-A-1210 Rev P02;
Visibility Splays/Junction Spacing drawing no. ITM9036-GA-027 Rev B;
Swept Path Analysis - Estate Car drawing no. ITM9036-GA-032;
Soft Landscape Proposals drawing no. GL1201 10C;
External Materials Schedule Ref: 201387 Rev A;
Arboricultural Assessment golby +luck Ref GL1201 August 2021 Issue 2;
Noise Assessment by SLR ref: 403.11451.00001 Version No. 1 March 2021;
Technical Note PJS Consulting Engineers Ref: PJSL17-22-TN-01 March 2021;
Traffic Impact for Reserved Matters Applications Ref: ITM9036-014A TN 1 April 2021; and;
Access Appraisal for Restaurant and Convenience Store Ref: ITM9036-013B TN 6 April 2021.

Reason: To define the terms of this permission.

3. The development shall be constructed and completed fully in accordance with the precise details specified in the planning application documents; External Materials Schedule Ref: 201387 Rev A.

   Reason: To ensure the works are carried out in a way which respects the appearance and character of the area in accordance with policies LS3, EN24 and LC13 of the Adopted Amber Valley Borough Local Plan 2006.

4. The premises the subject of the application shall not be taken into use until a permanent access has been formed in accordance with drawing number ITM9036 - GA-027 Rev D.

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

5. The premises the subject of the application shall not be taken into use until on-site parking (including secure cycle parking), turning and manoeuvring space has been provided in accordance with drawing number ITM9036-GA-032 Rev B, and maintained thereafter free from any impediment to its designated use.

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

6. The premises the subject of the application shall not be taken into use until a shared pedestrian/cyclist link has been provided into the site in accordance with drawing number ITM9036 -GA-027 Rev D.

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Reason: In the interests of highway safety and sustainability encouraging alternative modes of transport in accordance with saved policies LS1 and TP1 of the Adopted Amber Valley Borough Local Plan 2006.

7. Prior to the building hereby permitted being brought into use, precise details of the site boundaries shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the agreed details.

   Reason: To ensure both the satisfactory appearance of the completed development in accordance with saved policy LS3 of the Adopted Amber Valley Borough Local Plan 2006.

8. The soft landscaping shall be implemented in accordance with the details specified in the planning drawing no. GL1201 10C.

   Before the end of the first planting season following occupation/first use of any part of the development hereby permitted all soft landscaping shall be carried out and completed in accordance with the specified soft landscaping details.

   Any trees or 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 and EN8 of the Adopted Amber Valley Borough Local Plan 2006.

9. No work shall commence on the footings of the hereby approved development until such time as a scheme indicating proposed floor levels of all buildings, have been submitted to and approved by the local planning authority, and the development shall be constructed in accordance with the agreed levels.

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

10. The use hereby permitted shall not commence until details of the on-site refuse facilities to be provided for use of both the business and customers, as well as a scheme to collect off-site litter generated by the business, have been submitted to, and approved in writing by, the local planning authority. Those facilities and that system

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shall be provided in accordance with those approved details before the use commences and shall be maintained to the approved specification.

Reason: To protect the amenity of the residents of adjacent properties in accordance with saved policy EN16 of the Adopted Amber Valley Borough Local Plan 2006.

Notes

Attention is drawn to the attached notes:

1 The proposed access falls within the proposed Phase 1 Section 38 Agreement - any modifications to the layout will require any approved plans to be amended. Further advice is available from ETE.DevControl@derbyshire.gov.uk

2 The applicant is strongly urged to help meet the Government's commitments to achieve net-zero carbon emissions by 2050, and to meeting the NPPF's environmental objective of mitigating and adapting to meet climate change, including moving to a low carbon economy. Therefore, the applicant is strongly urged to include on-site renewable energy generation (e.g. solar panels), the de-carbonising of heating systems (e.g. air-/ground-source heat pumps) and enhanced levels of insulation beyond those required by present building standards.

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:

EN1 - Countryside
EN13 - Nature Conservation
EN14 - Nature Conservation
EN15 - Development and Flood Risk
EN16 - Pollution
EN18 - Derelict, Unstable And Contaminated Land
EN24 - Listed Buildings

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EN36 - Renewable Energy
LS1 - Sustainability criteria
LS2 - Community Safety
LS3 - Design
LS4 - Accessibility
LS5 - Section 106 Agreements
TP1 - Impact on the Transport Network
TP2 - Footpath, Cycleway, Bridleway network
TP3 - Section 106 footpath etc network
TP6 - Parking
TC8 - Food and Drink
TP9 - Safeguard Heanor IRR
EN8 - Landscape Features
EN9 - 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 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.**