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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/2022/0730**) which was valid on the 23 August 2022 for permission for **Erection of additional care home accommodation (Class C2) in the form of a new detached building within the grounds of the care home to provide independent care facilities for three residents) at The Lodge Creative Care The Old Vicarage**

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 documents and plans listed below and with the conditions attached to this consent:

   Application Form
   Site Location Plan - drawing 20961 01H dated May 2022

Date : 26 January 2023

Signed

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Site Plan as Proposed - drawing 20961 04E dated May 2022
Part Site Plan as Proposed Drawing number 20961 02I
Proposed Floor Plans and Elevations - drawing 20961 03G dated November 2020

Reason: In order to define the permission.

3. Prior to first occupation of the care facility a surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The agreed surface water drainage scheme shall be implemented on site prior to the care facility being taken into use fully in accordance with the approved details and be maintained in perpetuity for the life of the development.

   Reason: In the interests of preventing flooding in accordance with Policy EN15 of the Adopted Amber Valley Local Plan 2006.

4. No development shall commence until;

   a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and
   b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full.
   c) Prior to the occupation of the development, a signed statement or declaration confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

   Reason: This is a pre-commencement of development condition, necessary to ensure that the site is made safe and stable for the development proposed in accordance with Policy EN18 of the Adopted Amber Valley Borough Local Plan 2006.

5. The hereby approved care facility shall be constructed using the following external materials:

   Elevations - Larch Cladding
   Pitched Roof - Cambrian Redland slate
   Flat Roof - Slate Grey Single Ply Membrane

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

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6. The hereby approved care facility shall be ancillary to Creative Care at The Old Vicarage and for no separate commercial care enterprise.

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

7. No development shall commence until:
   a) an assessment of the risks posed by any ground gases has been submitted and approved by the Local Planning Authority.
   b) where the approved risk assessment (required by a) identifies ground gases posing unacceptable risks, no development shall begin until a detailed scheme to address the risks has been submitted and approved by the local planning authority.
   c) the approved scheme (required by b) shall be implemented and a verification report submitted and approved by the local planning authority, before the development is first brought into use.

   Reason: This is a pre-commencement of development condition necessary to ensure the site is developed free from unacceptable levels of contamination, as required by Policy EN18 of the Adopted Amber Valley Borough Local Plan 2006.

8. Prior to commencement of development, a construction management plan to include details of full tree protection and exclusion shall be first submitted to and approved in writing by the Local Planning Authority. The agreed tree protection scheme shall be implemented in full throughout the entirety of the construction process.

   Reason: To ensure no harm is caused to trees of significance on the application site as required by policies EN7 and EN8 of the Adopted Amber Valley Borough Local Plan 2006.

9. No work shall commence to the boundary treatment 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 of the Adopted Amber Valley Borough Local Plan 2006.

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Notes

Attention is drawn to the attached notes:

1 With regards to Condition 4, the Coal Authority advises the intrusive site investigations and remedial works will be required to be carried out in accordance with authoritative UK guidance.

2 The Borough Council's Trees and Conservation Officer advises that if any tree works are required to facilitate the loading/unloading of materials or for any other operation, that the trees around the unloading area are fenced off as to the correct exclusion zone. Works to trees subject to the Tree Preservation Order may require a separate application for tree works. The applicant/developer is advised to contact the Landscape Services department to discuss this prior to any works taking place.

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
TP1 - Impact on the Transport Network
TP6 - Parking
EN2 - Green Belt
EN7 - Landscape Character Areas
EN8 - Landscape Features
EN13 - Nature Conservation
EN15 - Development and Flood Risk
EN16 - Pollution
EN18 - Derelict, Unstable And Contaminated Land
EN24 - Listed Buildings
ER11 - Quality and design of development

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In detail:

Statement of compliance with Article 35 of the Town & Country (Development Management Procedure) (England) Order 2015:

The Authority worked with the applicant is a positive and pro-active manner based on seeking solutions to problems arising in the processing of planning applications in full accordance with this Article. The applicant had engaged in pre-application discussions with the Authority prior to submission of the application. The applicant was given clear advice as to what information would be required.

In accordance with Section 100ZA of the Town & Country Planning Act 1990, as amended and the Town and Country Planning (Pre-commencement Conditions) Regulations 2018 ('the Regulations'), the applicant has been provided with a draft schedule of the conditions attached to this report. In accordance with Regulation 3 (a) of the Regulations, the applicant has provided a substantive response to the effect that they agree with the imposition of the pre-commencement conditions.

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 development in the countryside and provide justification to support the proposal. Despite being within the countryside 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 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.

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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.