Simon Gladwin
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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/2022/0391**) which was valid on the 9 May 2022 for permission for **Replacement dwelling at Mellowfield Old Hillcliff Lane Turnditch**

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.

Date : 23 March 2023

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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:

   Site Location Plan - drawing 22/654//04
   Proposed Site Plan - drawing 22/654/05/A
   Proposed Floor Plans - drawing 22/654/03/A
   Proposed Elevations - drawing 22/654/02/A

   Received by the Council on 1st September 2022

   Bat loft - drawing 22/654/06
   Nest boxes - drawing 22/654/07

   Received by the Council on 21st March 2023

   Reason: In order to define the permission and for the avoidance of doubt

3. No above ground development shall take place to the external elevations or roof of the dwelling 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.

4. The dwelling hereby approved, shall not be occupied until full details of the proposed treatment of the boundaries of the site has been submitted to and approved by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

   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.

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5. 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 elevations 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 policy H12 of the Adopted Amber Valley Borough Local Plan 2006.

6. The parking and turning area as shown on drawing 22/654/05/A shall be provided in full prior to occupation of the hereby approved dwellinghouse. Once approved the off-road car parking shall be maintained in perpetuity for the lifetime of the development.

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

7. The first floor windows within the north-east side elevation shall be glazed in highly obscured (non see through) glass and top opening only. Such work shall be completed prior to the first occupation of the hereby approved dwelling and maintained as such thereafter.

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

8. No work shall commence on the site until such time as the scheme for protecting the existing trees on the site during the construction process has been implemented as per the measures as agreed within the submitted Arboricultural Report written by Tree Heritage Ltd dated 30th June 2022. Such protection as is agreed shall be maintained during the course of development.

   Reason: The tree(s) in question are considered to be features of significance. This condition is imposed to ensure that they are satisfactorily protected during the period when construction works take place on the site in accordance with policy LS3 of the Adopted Amber Valley Borough Local Plan 2006.

Date : 23 March 2023

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9. The dwelling hereby approved shall not be occupied until such time as the following biodiversity protection and enhancement measures as set out within the approved Bat and Bird Activity Survey written by Charnia Ecology, dated October 2022 and have been implemented as set out as per drawings:

   Bat loft - drawing 22/654/06
   Nest boxes - drawing 22/654/07

   The mitigation measures are as follows;

   A Bat Loft no smaller than 2.5 metres in height by 5 metres in depth

   2 x open fronted nesting boxes
   3 x closed nesting boxes
   2 x sparrow terrace boxes

   These shall be maintained in perpetuity.

   Reason: This condition is imposed to ensure that the mitigation measures and Biodiversity enhancements as set out within the Report entitled Bat and Bird Activity Survey written by Charnia Ecology, dated October 2022 and in accordance with policy EN13 of the Adopted Amber Valley Borough Local Plan 2006.

Date : 23 March 2023

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Notes

Attention is drawn to the attached notes:

1 No stripping, demolition works or vegetation clearance shall take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. If nesting birds are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.

2 If demolition works have not commenced by the start of May 2023 (The start of the next bat activity survey) then a single nocturnal bat activity survey must be completed by a suitably qualified ecologist to confirm continued absence of the disused brown long-eared bat roost.

3 Prior to the commencement of construction works, a tool box talk shall be given to contractors by a suitably qualified ecologist to inform them of the location of the identified historic roost, how to sensitively strip roof tiles and eaves where required and what to do in the eventuality that a bat is discovered. If evidence of roosting bats is found, works shall cease and the ecologist contacted
to devise a suitable mitigation strategy (including licensing where necessary)

4 Prior to any stripping or demolition works, a precautionary inspection of the building shall be undertaken by a suitably qualified ecologist to ensure roosting bats are not present. This can be completed at any time of year. The ecologist shall remain present whilst the roof coverings, including eaves and barge boards are stripped by hand. If evidence of roosting bats is found, no works shall commence until a suitable mitigation strategy has been produced (including licensing where necessary) and been submitted to the LPA for approval.

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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:

LS1 - Sustainability criteria
LS3 - Design
H4 - Housing development within settlements
H12 - Design and amenity considerations
TP1 - Impact on the Transport 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 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, sunlight/daylight, 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.**