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/2021/1240**) which was valid on the 2 December 2021 for permission for **New dwelling (the proposal is a departure to the Adopted Local Plan) at South Lodge Windley Belper**

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 : 28 March 2023

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2. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 2015 (or any other revoking and re-enacting that Order) no development relating to Class A, B, C, D or E of Part 1 of Schedule 2 (erection of extensions; alterations to the roof; buildings incidental to the enjoyment of the dwelling house; the insertion, enlargement, improvement or replacement of windows or doors; erection or construction of a porch) or development relating to Class A of Part 2 of Schedule 2 (erection of walls, fences, enclosures) 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 policy LS3 and EN6; of the Adopted Amber Valley Borough Local Plan 2006..

3. No development above ground level shall take place 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 EN6 of the Adopted Amber Valley Borough Local Plan 2006.

4. No trees on the site at the date of this permission shall be felled, topped, lopped, uprooted or destroyed, without the prior written consent of the Local Planning Authority. Any trees removed without such consent or diseased, shall be replaced with trees of such size and species as may be agreed with the Local Planning Authority.

   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 EN6 of the Adopted Amber Valley Borough Local Plan 2006.

5. No work shall commence on the site until such time as a scheme for protecting the existing trees on the site during the construction process has been submitted to and approved by the Local Planning Authority and implemented to its satisfaction. 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 EN8 of the Adopted Amber Valley Borough Local Plan 2006.

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6. The hereby approved development shall be carried out in accordance with the following approved documents and drawings:
   - Application Form
   - Site Location Plan
   - Proposed Site Plan 18-603-00.3.2 P05 Rev 'A'
   - Proposed Block Plan 18-603-00.3.2 P09 Rev 'A'
   - Proposed Sections 18-603-00.3.2 P04 Rev 'A'
   - Proposed Section A-A 18-603-00.3.2 P06 Rev 'A'
   - Proposed South and West Colour Elevations 18-603-00.3.2 P08 Rev 'A'
   - Proposed North and East Elevations 18-603-00.3.2 P07 Rev 'A'
   - Proposed Elevations 18-603-00.3.2 P02 Rev 'A'
   - Proposed Floor Plans 18-603-00.3.2 P01 Rev 'A'
   - Planting Plan and Schedule (96)001
   - Illustrative Landscape Masterplan 2.0 N0761(03)001C
   - Hard Landscaping Plan N0761-90-001

   Reason: To define the terms of this permission.

7. The hereby approved development shall be landscaped in accordance with the following approved drawings in the first planting season following occupation of the approved dwelling unless otherwise agreed in writing by the Local Planning Authority:
   - Planting Plan and Schedule (96)001
   - Illustrative Landscape Masterplan 2.0 N0761(03)001C
   - Hard Landscaping Plan N0761-90-001

   Reason: To define the terms of this permission and to ensure the development assimilates within the landscape in accordance and in the interest of ecology with saved policy EN6 of the Amber Valley Borough Local Plan 2006.

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Notes

Attention is drawn to the attached notes:

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

2 Throughout the period of development vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud and other extraneous material on the public highway.

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
H5 - Housing development outside settlements
H12 - Design and amenity considerations
TP1 - Impact on the Transport Network
TP6 - Parking
EN6 - Special Landscape Area
EN7 - Landscape Character Areas
EN8 - Landscape Features
EN16 - Pollution

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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.

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.

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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.