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/2022/0879**) which was valid on the 13 October 2022 for permission for **Variation of condition 2 of AVA/2021/1064 to amend route of previously approved access drive at 18 Wood Lane Horsley Woodhouse Ilkeston**

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 carried out only in accordance with the details and specifications set out below and the conditions within this decision notice:

   - Amended Site Location Plan
   - Visibility splay drawing no. 3701 19_018-CH-XX-ZZ-DR-W Rev P03;
   - Site Plan drawing no. JG/TH/20/43/20 Rev B received 9th March 2023
   - Proposed Floor Plans & Elevations drawing no. DB/TH/20/43/05 Rev E; and,
   - Domestic curtilage plan drawing no. S:1 J00 received by email on 21 May 2020

   Reason: In order to define the permission.

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2. Notwithstanding the hereby approved plans, the facing and roofing materials to be used for any necessary repair work in the development hereby permitted shall match as closely as possible to those used in the construction of the existing building.

   Reason: To ensure the satisfactory appearance of the completed development in accordance with saved policies LS3 and H12 of the Adopted Amber Valley Borough Local Plan 2006.

3. Notwithstanding the hereby approved plans, precise details of any necessary repair work, including part demolition/rebuilding if applicable, shall be submitted to and agreed in writing with the Local Planning Authority prior to the repair work taking place. The works shall be carried out in accordance with the agreed details.

   Reason: To ensure the satisfactory appearance of the completed development in accordance with saved policies LS3, H6 and H12 of the Adopted Amber Valley Borough Local Plan 2006.

4. 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 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 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 saved policy LS3 and H6 of the Adopted Amber Valley Borough Local Plan 2006.

5. The dwelling the subject of the application shall not be occupied until the existing access to Wood Lane has been modified in accordance with the revised application drawing, provided with 2.4m x maximum achievable across the site frontage (within the control of the applicant) visibility splays, the area in advance maintained free of any object exceed 1m in height (600mm if vegetation) relative the adjacent carriageway channel level. In addition the existing gate shall be set back 5m from the highway and shall be hung so as to open inwards only.

   Reason: In the interests of the safety of the users of the access and public highway safety in general in accordance with saved policies H12 and TP1 of the Adopted Amber Valley Borough Local Plan 2006.

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6. The dwelling the subject of the application shall not be occupied until on-site parking, and manoeuvring space (to accommodate small home delivery vehicles) has been provided, laid out and constructed in accordance with the revised application drawing and maintained thereafter free from any impediment to their respective designated uses.

   Reason: In the interests of the safety of the users of the access and public highway safety in general in accordance with saved policies H12 and TP1 of the Adopted Amber Valley Borough Local Plan 2006.

7. The dwelling the subject of the application shall not be occupied until details of a (shared) temporary bin collection point adjacent to the public highway for use on collection days, have been submitted for approval, and once approved fully implemented on site.

   Reason: In the interests of the safety of the users of the access and public highway safety in general in accordance with saved policies H12 and TP1 of the Adopted Amber Valley Borough Local Plan 2006.

8. i) The development shall be undertaken in strict compliance with the requirements contained within the approved RMS (dated November 2021, Version 1.0). Any proposed revisions to the RMS must be submitted and approved in writing by the Local Planning Authority prior to any changes in remediation methods.

   ii) If during development works, any contamination is encountered which was not previously identified and is derived from a different source and/or of a different type to those already identified, then no further works shall take place until a revised RMS is submitted to and approved in writing by the Local Planning Authority and the works shall then be carried out in accordance with the revised RMS.

   iii) If during development work, site contamination is found in areas previously expected to be uncontaminated, then the remediation of those areas shall be carried out in accordance with the approved RMS.

   iv) No building shall be occupied unless and until a Verification Report in accordance with the RMS has been submitted to and approved in writing by the Local Planning Authority.

   v) All investigations, assessments and reports must be carried out by a suitably qualified competent person previously agreed in writing by the Local Planning Authority and in accordance with the most recent version of BS 10175: Code of practice for the investigation of potentially contaminated sites.

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Reason: The undertaking of a site investigation prior to the commencement of development is necessary to ensure that adequate information pertaining to risks arising from land contamination is available to inform an assessment that the site is either suitable for its proposed use or appropriate remedial measures could make the site suitable for its proposed use. In order to ensure the safety of the development, in accordance with paragraphs 178 and 179 of the National Planning Policy Framework.

9. If any part of the site is to be raised or filled using materials brought from outside the application site, the developer shall provide documentary evidence that all such materials are free from levels of contamination that would be in excess of current appropriate standards. In the event that no such evidence is available, the materials must be subjected to adequate chemical or other testing to demonstrate that the materials are suitable for their intended final use. All documentary evidence and/or sampling methodology and testing results shall be submitted to and agreed in writing by the Local Planning Authority prior to any material being brought onto site. No such materials shall be imported without prior approval.

   Reason: The importation of contaminated materials may result in the need for remediation works at a later date if the land is subsequently identified as contaminated land under the terms of Part IIA of the Environmental Protection Act 1990.

10. Notwithstanding the hereby approved plans, the domestic curtilage shall be confined to the areas annotated on the submitted domestic curtilage plan drawing no. S:1 J00 received by email on 21 May 2020, namely the area immediately to the east of the building and the three parking spaces associated with the development. The domestic curtilage shall be laid out in accordance with the agreed details and remain in perpetuity.

    Reason: For the avoidance of doubt and to protect the character and visual amenities of the locality in accordance with saved policy LS3 and H6 of the Adopted Amber Valley Borough Local Plan 2006.

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11. Notwithstanding the hereby approved plans, full details of the proposed treatment of the boundary(ies) of the site, including any gate at the site access with Wood Lane, shall be submitted to and approved in writing by the Local Planning Authority prior to occupation of the hereby approved development. 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 saved policies LS3 and H12 of the Adopted Amber Valley Borough Local Plan 2006.

12. Prior to the commencement of any works which may affect bats or their habitat, a detailed bat mitigation strategy, based on the measures outlined in sections 4.2.2 to 4.2.6 of the Bat Survey Report prepared by RammSanderson dated September 2019 and including the need to obtain a Natural England EPS Mitigation licence and which shall include a precautionary method of works, shall be submitted to and approved in writing with the Local Planning Authority. All works should then proceed in accordance with the approved strategy.

    Reason: This is a pre-commencement condition to ensure the development does not have an adverse impact upon species specifically protected under the schedules of the Wildlife and Countryside Act 1981 in accordance with saved policy EN13 and to improve the biodiversity of the local area in accordance with saved policy EN13 of the Adopted Amber Valley Borough Local Plan 2006.

13. Notwithstanding the hereby approved plans and prior to the occupation of the hereby approved development, a scheme of hard and soft landscaping, that demonstrates no net loss of native hedgerow, and includes a replacement native mix species hedgerow along the front (western) boundary of the site, with any additional planting areas using appropriate native species of shrub, tree and herbaceous hedgerow field layer vegetation, shall be submitted to and approved by the Local Planning Authority. All planting, seeding or turfing indicated on the approved landscaping scheme shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and 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. The replacement native mix species hedgerow shall be kept in perpetuity and maintained at a height of no less than 1.8m.

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Reason: To ensure the satisfactory overall appearance of the completed development and to help assimilate the new development into its surroundings in accordance with saved policies LS3 and EN8 of the Adopted Amber Valley Borough Local Plan 2006.

14. Prior to the commencement of the development, a scheme of biodiversity enhancements, including but not restricted to bird nesting boxes/cups shall be submitted to and approved in writing by the Local Planning Authority. Such approved measures should be implemented in full prior to the occupation of the hereby approved building and maintained thereafter.

    Reason: This is a pre-commencement condition to ensure the development does not have an adverse impact upon species specifically protected under the schedules of the Wildlife and Countryside Act 1981 in accordance with saved policy EN13 and to improve the biodiversity of the local area in accordance with saved policy EN13 of the Adopted Amber Valley Borough Local Plan 2006.

15. Precise details of all new windows/doors to be installed and their recess, shall be agreed in writing with the Local Planning Authority before installation. The works shall be carried out in accordance with the agreed details.

    Reason: To ensure the satisfactory appearance of the completed development in accordance with saved policies LS3 and H12 of the Adopted Amber Valley Borough Local Plan 2006.

16. Notwithstanding the hereby approved plans, precise details of the layout and materials of the new driveway shall be submitted to and approved in writing with the Local Planning Authority, prior to works commencing on the driveway. The works shall be carried out in accordance with the agreed details.

    Reason: To protect the character and visual amenities of the locality in accordance with saved policy LS3 and H6 of the Adopted Amber Valley Borough Local Plan 2006.

17. Notwithstanding the hereby approved plans and prior to occupation of the hereby approved development a scheme for the long-term maintenance of the replacement hedgerow shall be submitted to and approved in writing with the Local Planning Authority. The replacement hedgerow will be maintained in perpetuity, at a height of no less than 1.8m, in accordance with the agreed scheme.

    Reason: To ensure the satisfactory overall appearance of the completed development and to help assimilate the new development into its surroundings in accordance with saved policies LS3 and EN8 of the Adopted Amber Valley Borough Local Plan 2006.

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19. Prior to the occupation of the hereby approved development, the new mixed Holly, Blackthorn and Quickthorne hedge shown on drawing JG/TH/20/43/20 Rev B) received on 9th March, shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any hedge 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. The replacement native mix species hedgerow shall be kept in perpetuity and maintained at a height of no less than 1.8m.

    Reason: To ensure the satisfactory overall appearance of the completed development and to help assimilate the new development into its surroundings in accordance with saved policies LS3 and EN8 of the Adopted Amber Valley Borough Local Plan 2006.

20. The first 5 m from the highway boundary of the hereby approved access shall be constructed in a solid bound material.

    Reason: In the interests of the safety of the users of the access and public highway safety in general in accordance with saved policies H12 and TP1 of the Adopted Amber Valley Borough Local Plan 2006.

Notes

Attention is drawn to the attached notes:

1 Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. In the event that you are proposing to undertake such work in the Forest of Dean local authority area our permission may not be required; it is recommended that you check with us prior to commencing any works. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at:
https://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property

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2 No removal of trees, hedgerows or shrubs or demolition of buildings or structures that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the work is commenced and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site.

3 No removal of trees, hedgerows or shrubs or demolition of buildings or structures that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the work is commenced and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site.

4 The conditions of the issued Natural England licence shall be adhered to and a copy of the licence shall be submitted to the Local Planning Authority once issued .

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
EN1 - Countryside
EN2 - Green Belt
EN7 - Landscape Character Areas
EN8 - Landscape Features
EN13 - Nature Conservation
EN16 - Pollution
EN18 - Derelict, Unstable And Contaminated Land
H6 - Countryside Conversion
H12 - Design and amenity considerations
TP1 - Impact on the Transport Network
TP6 - Parking

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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.

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.**