**Simon Gladwin**
**Executive Director (Operations)**
**Development Management**

Town Hall
Ripley
Derbyshire DE5 3BT
Tel: 01773 570222
Fax: 01773 841523
Email: enquiry@ambervalley.gov.uk
Web: www.ambervalley.gov.uk

Mr Lee Astle
Wheathills Lodge Brun Lane
Kirk Langley
Derbyshire
Ashbourne
DE6 4LU

HES Architects Ltd.
8 Church Street
Swadlincote
DE11 8LE

# 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/2022/0502**) which was valid on the 1 June 2022 for permission for **Demolition of existing garages/outbuildings to allow for the conversion and extension of the existing house and subdivision in to 4 dwellings - this is a departure to the Development Plan at Wheathills Lodge Brun Lane Kirk Langley**

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 : 12 April 2023

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2. 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:

   - Application Form
   - Site Location plan Drawing Number 00001 Rev 'P1'
   - Proposed Block Plan Drawing Number 02000 Rev 'P2'
   - Proposed Elevations Drawing Number 02002 Rev 'P2'
   - Proposed Floor Plans Drawing Number 0201 Rev 'P2'

   **Reason**: In order to define the permission.

3. Prior to the hereby approved development first being occupied, details for the storage and collection of waste bins shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to occupation and maintained for the life of the development.

   **Reason**: to ensure there is adequate provision for the collection of waste.

4. The premises, the subject of the application, shall not be occupied until space has been provided within the application site in accordance with the application drawings for the parking and manoeuvring of residents and service and delivery vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

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

5. There shall be no gates or other barriers within 5m of the nearside highway boundary and any gates shall 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 TP1 and H12 of the Adopted Amber Valley Borough Local Plan 2006.

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6. Prior to occupation of the hereby approved development, the access shall be modified in accordance with drawing number F20144/03 Revision A. The access shall be maintained in accordance with the approved drawings unless otherwise agreed in writing with the Local Planning Authority.

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

7. Prior to first occupation, a scheme of biodiversity enhancement shall be submitted to and approved in writing by the Local Planning Authority to consist of the installation of a bat box on the converted building. The approved enhancement scheme shall be implemented fully in accordance with the agreed details as construction proceeds and completed prior to the first occupation of the development and retained as such thereafter in perpetuity for the life of the development.

   **Reason**: To secure a net gain for biodiversity in accordance with Policy EN13 of the Adopted Amber Valley Borough Local Plan 2006.

8. No development shall take place above DPC level 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 policy LS3 and of the Adopted Amber Valley Borough Local Plan 2006.

9. 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 pertaining 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 H6 of the Adopted Amber Valley Borough Local Plan 2006.

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10. The hereby approved development shall not be occupied until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping. All planting, seeding or turfing indicated on the approved landscaping scheme shall be carried out prior to the development being brought into use. 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 H12 of the Adopted Amber Valley Borough Local Plan 2006.

**Notes**

**Attention is drawn to the attached notes:**

1 Throughout the construction phase, space shall be provided within the site curtilage for storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives and visitors vehicles.

2 Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department - Place at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council.

3 The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the householder.

4 Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway, measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

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5 Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway.

6 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.

**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
H6 - Countryside Conversion
H5 - Housing development outside settlements
H12 - Design and amenity considerations
TP1 - Impact on the Transport Network
TP6 - Parking
EN1 - Countryside
EN13 - Nature Conservation

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**In detail:**

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 residential development on greenfield land and provide justification to support the proposal. Despite being a greenfield site 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 development will also contribute to meeting the overall housing requirement in the Borough.

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.**