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

Ylem EPC Ltd
Edison House
Daniel Adamson Road
Manchester
M50 1DT
United Kingdom

Clive Fagg
Clive Fagg Planning
9 Dairy Lane
Hose
LE14 4JW
United Kingdom

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/2022/0723**) which was valid on the 31 August 2022 for permission for **The installation and operation of a ground mounted solar PV array to provide electricity to Denby Pottery at Land To The South Of Denby Holdings Ltd Derby Road Denby**

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 is permitted for a temporary period expiring on the 31st December 2048. Before this date the installation shall be removed and the site returned to its original condition unless otherwise agreed in writing by the Local Planning Authority.

   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 : 24 May 2023

Signed S Gladwin

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2. All site preparation, demolition and construction activities shall comply with the following:

a) Operating hours:
No works, or deliveries to and from the site, shall occur other than between 08:00 and 18:00 hours on weekdays and between 08:00 and 13:00 hours on Saturdays. No works shall take place on Sundays or bank holidays. Any essential extension to these hours, other than for emergency works, shall be agreed with the Local Planning Authority before work commences. Activities that do not create noise and disturbance to residents may still take place outside these hours.

b) Noise and vibration:
All activities shall comply with British Standard BS 5228 'Code of practice for noise and vibration control on construction and open sites'.

c) Dust/Particulate emissions:
No visible dust/particulate matter shall be emitted beyond the site boundary. At such times as the prevention of nuisance is not possible, dust/particulate generating activities shall temporarily cease until such time as dust suppression measures become effective.

d) Waste:
No unwanted materials shall be disposed of on site by burning.

e) Lighting:
Any temporary site lighting shall be positioned on site to minimise light trespass and glare.

Reason: In the interest of amenity in accordance with Saved Policies EN16 of the Amber Valley Borough Local Plan 2006.

3. No permanent external lighting shall be installed unless full details of its design, location, illuminance levels, orientation and operating times have first been agreed with the Local Planning Authority. All works shall be fully implemented in accordance with the approved scheme before use commences.

Reason: In the interest of amenity in accordance with Saved Policies EN16 of the Amber Valley Borough Local Plan 2006.

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4. The hereby approved development shall be carried out in accordance with the conclusions and recommendations contained within the Preliminary Ecological Appraisal by Midland Ecology dated 20th June 2022 unless otherwise agreed with the Local Planning Authority.

   Reason: In the interest of ecology in accordance with saved policy EN13 of the Amber Valley Borough Local Plan 2006.

5. The hereby approved development shall be carried out in accordance with the following approved documents and drawing:

   Application Form
   Site Location Plan
   Block Plan Drawing Number DEN-PV-001.2 Rev 4
   Proposed Elevations Drawing Number DEN-PV-001.6 and DEN-PV-001.5
   Traffic Management Plan Dated July 2022

   Reason: To define the terms of this permission.

6. Prior to the installation of cables or apparatus outside of the application site, details of their siting, and potential impact upon trees shall be submitted to and approved in writing by the Local Planning Authority.

   Reason: In the interest of protecting trees in accordance with saved policy EN8 of the Amber Valley Borough Local Plan 2006.

7. No hedgerow within the application site shall be uprooted or otherwise destroyed unless previously agreed in writing by the Local Planning Authority.

   Reason: In the interest of visual amenity in accordance with saved policy EN8 of the Maber Valley Borough Local Plan 2006.

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Notes
Attention is drawn to the attached notes:

1 Advisory Note: The site and access track are affected by public rights of way (footpaths number 36, 38 and 39 Denby on the Derbyshire Definitive Map). The routes must remain unobstructed on their legal alignment at all times and the safety of the public using them must not be prejudiced either during or after development works take place. Further advice, including on temporary or permanent diversions can be obtained by calling 01629 533190.

2 The public footpaths shall be maintained at a minimum width of 2m and shall not be impeached during construction unless agreed with Derbyshire County Council

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
LS2 - Community Safety
LS3 - Design
LS4 - Accessibility
ER3 - Business and industrial development
ER5 - Industrial and storage development
ER11 - Quality and design of development
TP1 - Impact on the Transport Network
EN1 - Countryside
EN2 - Green Belt
EN3 - Major Development in the Green Belt
EN7 - Landscape Character Areas
EN8 - Landscape Features
EN9 - Landscape Features
EN10 - Agricultural Land Quality
EN11 - Agricultural development
EN12 - Nature Conservation
EN13 - Nature Conservation
EN14 - Nature Conservation
EN15 - Development and Flood Risk
EN16 - Pollution
EN16 - Pollution

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EN18 - Derelict, Unstable And Contaminated Land
EN35 - Renewable Energy
EN36 - Renewable Energy

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.**