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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/2022/0824**) which was valid on the 26 September 2022 for permission for **Change of use of two agricultural barns to form 2 no. dwellinghouses with associated conversion works (part retrospective) at Spencer Barn Palerow Lane Shottle**

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.

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:

   Proposed Site Plan - DRG 3642-003, rev. D dated February 2022
   Site Plan as Proposed Showing Areas - DRG 3642-009, dated January 2023
   Site Location Plan - DRG 3642-001, Rev. A, dated September 2022
   Proposed Floor Plans - DRG 3642-006, Rev. G, dated February 2022

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Proposed Elevations - DRG 3642-007, Rev. F, dated February 2022
Preliminary Ecological Appraisal Report, prepared by Elton Ecology, ref. No. P2257_01, V2, dated 13 June 2022

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

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order) no development relating to Class A, B, C, D, E of Part 1 of Schedule 2 (erection of extensions, porches, roof alterations and outbuildings) 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 policies EN1, LS3 and H12 of the Adopted Amber Valley Borough Local Plan 2006.

4. No development shall take place to the external elevations and roof of the development 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 EN1, LS3 and H12 of the Adopted Amber Valley Borough Local Plan 2006.

5. Prior to installation, precise details of all new windows/doors to be installed shall be submitted to and approved in writing by the Local Planning Authority. The agreed windows and doors shall then be installed fully in accordance with the approved details and be maintained in perpetuity for the life of the development.

   **Reason**: To ensure the satisfactory appearance of the completed development in accordance with policies EN1, LS3 and H12 of the Adopted Amber Valley Borough Local Plan 2006.

6. No work shall commence to the boundary treatment of the site until full details of the proposed treatment of the boundaries of the site have been submitted to and approved by the Local Planning Authority. Any agreed scheme shall be implemented fully in accordance with the approved details prior to occupation of the development.

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**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 EN1, LS3 and H12 of the Adopted Amber Valley Borough Local Plan 2006.

7. Prior to occupation of the hereby approved dwellings, a landscaping scheme shall be submitted to and be approved by the Local Planning Authority. Any trees or plants shall be planted in accordance with the agreed landscaping scheme in the first planting season and any trees/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 EN1, LS3 and H12 of the Adopted Amber Valley Borough Local Plan 2006.

8. Notwithstanding the submitted site location plan, the hereby approved garden curtilages of each barn are as per drawing number 3642-009 dated January 2023 and excludes the shown communal area.

   **Reason**: In the interests of protecting the character and appearance of the countryside in accordance with Policy EN1 of the Adopted Amber Valley Borough Local Plan 2006.

9. Prior to the installation of any external lighting, full details of the external lighting scheme, to include the chosen luminaires, locations and any mitigation measures such as dimmers, PIR sensors and timers shall be first submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall then be implemented fully in accordance with the approved details.

   **Reason**: To safeguard bats and other nocturnal wildlife in accordance with Policy EN13 of the Adopted Amber Valley Borough Local Plan 2006.

10. Prior to occupation of the hereby approved dwellings, details of integrated bird and bat boxes shall be provided fully in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be maintained in perpetuity for the life of the development.

    **Reason**: In the interests of biodiversity conservation and to comply with Policy ENV13 of the Adopted Amber Valley Local Plan.

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11. Throughout the construction phase protection fencing for trees and hedgerow shall be provided and maintained fully in accordance with the recommendations in Section 6.2 of BS5837: 2012 'Trees in relation to design, demolition and construction'.

    **Reason**: To ensure no harm is caused to trees and hedgerows during the construction phase, in accordance with Policy EN8 of the Adopted Amber Valley Borough Local Plan 2006.

**Notes**

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

1 Should any hedgerow require removal, Derbyshire Wildlife Trust advises that a check for amphibians and reptiles along the base of the hedgerow is undertaken immediately prior to removal as stated in the PEA. In the event that reptiles or great crested newts are found, works should cease and a Consultant Ecologist contacted for further advice.

2 Given the presence of three separate day roosts within the building, used by a common pipistrelle identified during survey work, the conversion of the building into dwellings should not take place until the site has been registered under a bat mitigation class licence (low impact) as recommended in the PEA report. Upon site registration works should proceed strictly in accordance with the approved mitigation, which should be based on the proposed measures outlined in the PEAR and amended as necessary based on any correspondence with Natural England. Such approved mitigation should be implemented in full in accordance with a timetable of works included within the Natural England licence and followed thereafter.

3 With regards to Condition 9, Derbyshire Wildlife Trust advises guidelines can be found in Guidance Note 08/18 - Bats and Artificial Lighting in the UK (BCT and ILP, 2018).

4 In relation to condition 10, Derbyshire Wildlife Trust advises integrated boxes should provide long-lasting, discreet and secure nesting and
roosting opportunities. Boxes should be attached at eaves level, with bird boxes avoiding south facing elevations. Photographs of the boxes in situ should be submitted as part of the condition discharge process.

5 The Highway Authority advises the application site is affected by a Public Right of Way that crosses the north west corner of the application site. The route must always remain unobstructed on its legal alignment and the safety of the public using it must not be prejudiced either during or after development works take place. Further advice can be obtained by calling 01629 533190.

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6 Derbyshire Wildlife Trust advises that as evidence of the presence of nesting birds was identified within an external stone wall, any cavities within the exterior of the building should be retained. If this is not possible then works affecting any such cavities should be done outside the bird breeding season considered to be the start of March to the end of September inclusively. Alternatively, the cavities should be checked by a suitably experienced Ecologist prior to any works affecting them. If nesting birds are present within any part of the building including external cavities then works should stop immediately and a Consultant Ecologist contacted for advice. Works should be delayed until the chicks have fledged and in the meantime a buffer area surrounding the nesting site observed to prevent disturbance until the birds have fledged.

7 No hedgerow clearance should 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 should be implemented and monitored until the chicks have fledged. No works should be undertaken within exclusion zones whilst nesting birds are present.

**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
EN7 - Landscape Character Areas
EN8 - Landscape Features
H6 - Countryside Conversion
H12 - Design and amenity considerations
TP1 - Impact on the Transport Network
TP6 - Parking

**In detail:**

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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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.**