Simon Gladwin
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Silver Trees Beggarswell Wood
Ambergate
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Belper
DE56 2HF

Mr Benjamin Heginbotham
The Practical Planning Company
23 Heritage Road
Castle Donington
DE74 2YP

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 the saved policies of the Adopted Amber Valley Borough Local Plan 2006, and with reference to your application (**Office Code: AVA/2022/0687**) which was valid on the 4 August 2022 for permission for **Outline application for new dwelling with access, landscaping, layout and scale to be agreed at Silver Trees Beggarswell Wood Ambergate**

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 **REFUSED for the following reasons:**

Conditions/Reasons

1. The application is for residential development for the replacement of a garage outside land considered to be outside of the domestic curtilage of Silver Tree and therefore within the countryside and adjacent a Special Landscape Area. The proposed development is contrary to Saved Policy EN1 (a, b, c) and EN6 of the Adopted Amber Valley Borough Local Plan 2006, which seeks to ensure careful control is exercised over development outside of settlements to maintain the openness of the countryside.

   The proposal fails to be environmentally sustainable by virtue of the harm that caused by encroachment to the openness of the countryside and landscape character of the area. This is contrary to Paragraph 8 of the National Planning Policy Framework, which states that there are three dimensions to sustainable development: economic, social and environmental, which must be read together as they are mutually dependent in the interests of ensuring a sustainable form of development including to protect and enhance the natural, built and historic environment. The development is contrary to Saved policy LS1 of the Adopted Amber Valley Borough Local Plan 2006, which states, amongst others, that development should be located taking into account of specific sustainability criteria, including amongst others, protecting and enhancing the quality of the built and natural environment and policy EN6 of the Amber Valley Borough Local Plan 2006 which states that new development will only be permitted in a Special Landscape Area if it does not have an adverse effect on the landscape character.

The proposal is contrary to Policy LS3 of the Adopted Amber Valley Borough Local Plan 2006, as the change in character of a domestic site would fail to conserve the quality and local distinctiveness of the natural environment; and contrary to Paragraph 174 (a) and (b) of the National Planning Policy Framework, as the development fails to protect a valued landscape or to recognise the intrinsic character and beauty of the countryside.

The proposal also has a significant effect on the visual appearance of the Special Landscape Area. The harm identified would fail to meet the environmental objective of sustainability contrary to paragraph 8 of the NPPF and this harm provides a clear reason to refuse the proposal in accordance with paragraph 11 d) i of the NPPF.

2. The application site is located directly adjacent to the Derwent Valley Mill World Heritage Site, within the Buffer Zone of the World Heritage Site within Beggerswell Wood, adjacent to a public footpath to the northeast of the site. The development of a dwelling in this location, abruptly adjoining the public right of way and removing trees will detract from and affect the rural character and the late 18th century untouched nature of the World Heritage Site.

   The proposal is therefore contrary to saved policy EN29 of the Adopted Local Plan 2006 as it does not preserve or enhance the setting of the World Heritage Site as it causes harm to wooded landscape which is an integral part of the Outstanding Universal Value of the World Heritage Site and contrary to Part 16 of the National Planning Policy Framework as it does not sustain or enhance the significance of the World Heritage Site. The public benefits arising from the construction of one dwelling would not outweigh the 'less than substantial' harm caused to the setting of the designated heritage assets, having weighed the harm against the public benefit in accordance with paragraph 196 of the National Planning Policy Framework.

   In the finding of 'less than substantial' harm and without the public benefits outweighing the harm, the restrictive policies, which seek to protect the historic environment as set out in Part 16 of the National Planning Policy Framework, therefore provide a clear reason to refuse this development in accordance with paragraph 11, d i of the NPPF.

3. Insufficient information has been provided in the application to demonstrate how the proposal would have regard to and protect the existing trees within the site. As such the proposal would be contrary to Saved Policy EN8 the adopted Local Plan which states that planning permission will not be granted for development that would cause damage or destroy significant trees woodlands, hedgerows, drystone wall or other features, unless exceptional circumstances can be demonstrated to justify the proposals.

Paragraph 180 of the NPPF also states that where it states that when determining planning applications, development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.

4. Saved policy LS1 of the Amber Valley Borough Local Plan 2006 states that development proposals shall be located to take account of sustainability criteria stating that developments shall be well-related to existing patterns of development, shall protect and enhance the quality of the built and natural environment, minimise the need to travel and ensure the capacity of existing infrastructure to absorb further development. Paragraph 80 of the National Planning Policy Framework also states that the development of isolated homes in the countryside should be avoided unless the development complies with one of more of a-e. The application site is not considered to be well-related to the existing settlement, with the access unadopted and unmade over a considerable distance. Given the above, the development does not fall within the criteria set out and it is considered the development would be contrary to saved policy LS1 of the Amber Valley Borough Local Plan 2006 and the Paragraph 80 of the National Planning Policy Framework.

   The proposal does not constitute sustainable development for the purposes of paragraphs 8 and 11 d) i) of the National Planning Policy Framework, since the application of policies in the Framework that protect areas or assets of particular importance, provide a clear reason for refusing the development proposed by virtue of the environmental harm that would arise to the assets of national and local heritage value which is not outweighed by public benefit.

Notes

Attention is drawn to the attached notes:

In detail:

The processing of this planning application has been undertaken in accordance with the requirements of the National Planning Policy Framework (NPPF). Dialogue between the applicant and Local Planning Authority has been undertaken, however, given that there are fundamental concerns relating to the principal it is therefore considered best to determine the application and allow the applicant the opportunity to appeal against the decision.

Date : 31 July 2023

Signed

Simon Gladwin
Executive Director (Operations)

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. **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.**
3. **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.**
4. **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.**
5. **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

6. **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.**
7. **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.**
8. **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".**
9. **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.**
10. **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.**