Simon Gladwin
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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/2023/0318**) which was valid on the 20 April 2023 for permission for **Variation of condition 2 (approved plans) of AVA/2021/0085 at Land At Access 26 Business Park Enterprise Way Langley Mill**

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 6th April 2023.

   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.

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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:

- Site Plan as Proposed drawing no. 19103-C4P-AV-ZZ-DR-A-0500 Rev P17;
- Unit 1 - Elevations as Proposed drawing no. 19103-C4P-V1-ZZ-DR-A-2100 Rev P7;
- Unit 1 - GA Plan as Proposed - Level 00 drawing no. 19103-C4P-V1-00-DR-A-2000 Rev P8;
- Unit 1 - GA Plan as Proposed - Level 1 drawing no. 19103-C4P-V2-01-DR-A-2001 Rev P8;
- Unit 1 - Roof Plan as Proposed drawing no. 19103-C4P-V1-R1-DR-A-3300-Rev P3;
- Unit 2 - Elevations as Proposed - drawing no. 19103-C4P-V2-ZZ-DR-A-2100 Rev P7;
- Unit 2 - GA Plan as Proposed - Level 00 drawing no. 19103-C4P-V2-00-DR-A-2000 Rev P10;
- Unit 2A - GA Entrance Core and Office Plan as Proposed - Level 00 and 01 drawing no. 19103-C4P-V2-XX-DR-A-2001 Rev P10;
- Unit 2B - GA Entrance Core and Office Plan as Proposed - Level 00 and 01 drawing no. 19103-C4P-V2-XX-DR-A-2002 Rev P3;
- Unit 2 - Roof Plan as Proposed drawing no. 19103-C4P-V2-R1-DR-A-3301-Rev P4;

- Flood Risk Assessment dated 16/04/2021;
- Transport Assessment dated March 2020;
- Biodiversity Net Gain Assessment prepared by Collington Winter Environmental October 2022;
- Biodiversity Metric 3.1 (18.05.2022);

Reason: In order to define the permission.

3. The premises the subject of the application shall not be taken into use until on-site parking, including cycle parking, turning and manoeuvring has been provided in accordance with the application drawings and maintained thereafter 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.

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4. The development shall be carried out in accordance with the submitted flood risk assessment (ref T/2277/FRA, dated 16th April 2020, by Tier Consult and the following mitigation measure it details:

   - Finished floor levels shall be set no lower than 59.25 metres above Ordnance Datum (AOD) as detailed within Section 7.2.

   This mitigation measure shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

   Reason: To reduce the risk of flooding to the proposed development and future occupants in accordance with saved policy EN15 of the Adopted Amber Valley Borough Local Plan 2006.

5. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

   Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site in accordance with EN16 of the Adopted Local Plan 2006.

6. a) No development shall commence until:

   i. The approved development site has been subjected to a detailed investigation to determine the extent, scale and nature of any contamination and an assessment of the potential risks (the "Assessment") has been carried out.
   ii. A report providing the details of the site investigation and the Assessment been submitted and approved in writing by the Local Planning Authority.
   iii. A Remediation Method Statement (the "RMS") to address any remediation required by the Assessment including a plan for how the remediation methods will be verified, has been submitted and approved in writing by the Local Planning Authority.

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b) The development shall be undertaken in strict compliance with the requirements contained within the approved RMS. 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.

c) 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.

d) 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.

e) 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.

f) 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 Environment Agency publication Land contamination: risk management (LCRM).

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.

7. No development shall commence until;

a) a scheme of intrusive site investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;

b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

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The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

Reason: This pre-commencement condition is required to ensure that effective remedial or mitigating measures are taken to treat, control or contain unstable land in accordance with saved policy EN18 of the Adopted Amber Valley Borough Local Plan 2006 and paragraphs 183 and 184 of the National Planning Policy Framework.

8. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

   Reason: To ensure that effective remedial or mitigating measures have been undertaken to treat, control or contain unstable land in accordance with saved policy EN18 of the Adopted Amber Valley Borough Local Plan 2006 and paragraphs 183 and 184 of the National Planning Policy Framework.

9. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:

   a. Tier Consult. 02/09/2022. Flood Risk Assessment. Rev 1.1 T/2277/FRA. Including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team

   b. And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015),

   have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed plan.

   Reason: To ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance/management of the sustainable drainage systems in accordance with saved Policy EN15 of the Adopted Amber Valley Borough Local Plan 2006.

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10. No development shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 80 reference ID: 7-080-20150323 of the planning practice guidance. The development shall be carried out in accordance with the agreed plan.

    Reason: To ensure that surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest possible priority destination on the hierarchy of drainage options in accordance with saved policy EN15 of the Adopted Amber Valley Borough Local Plan 2006.

11. Prior to commencement of the development, the applicant shall submit for approval to the Local Planning Authority details indicating how additional surface water run-off from the site will be avoided during the construction phase. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be operating to the satisfaction of the Local Planning Authority, before the commencement of any works, which would lead to increased surface water run-off from site during the construction phase.

    Reason: To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development in accordance with saved Policy EN15 of the Adopted Amber Valley Borough Local Plan 2006.

12. Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

    Reason: To ensure that the drainage system is constructed to the national Non-statutory technical standards for sustainable drainage and CIRIA standards C753 in accordance with saved Policy EN15 of the Adopted Amber Valley Borough Local Plan 2006.

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13. No work shall commence on the footings of the hereby approved development until such time as a scheme indicating proposed floor levels of all buildings, and the relationship of such to the existing dwellings has been submitted to and approved by the Local Planning Authority, and the development shall be constructed in accordance with the agreed levels.

    Reason: To safeguard the privacy and amenities of the occupiers of adjoining properties in accordance with saved policies LS3 and H12 of the Adopted Amber Valley Borough Local Plan 2006.

14. Prior to the hereby approved development being brought into use, full details of the proposed treatment of the boundary(ies) of the site shall be submitted to and approved by the Local Planning Authority. 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 policy LS3 of the Adopted Amber Valley Borough Local Plan 2006.

15. Prior to the commencement of works (including clearance of grassland, refugia piles, scrub or groundworks) a Reptile Method Statement shall be submitted to and approved in writing by the Local Planning Authority to safeguard grass snake (along with any other reptiles encountered). This shall include reasonable avoidance measures, seasonal timings and instructions in the event animals are discovered. The agreed Method Statement shall be implemented in full, and a short statement of compliance submitted at the end of site clearance works.

    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.

16. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the
    following:

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a) Risk assessment of potentially damaging construction activities.
b) Identification of "biodiversity protection zones".
c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.
d) The location and timing of sensitive works to avoid harm to biodiversity features.
e) The times during construction when specialist ecologists need to be present on site to oversee works.
f) Responsible persons and lines of communication.
g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

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

17. A Landscape and Biodiversity Enhancement and Management Plan (LBEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority prior to the commencement of the development. The aim of the LBEMP is to enhance and sympathetically manage the biodiversity value of onsite habitats, in accordance with the proposals set out in the Biodiversity Net Gain Assessment prepared by Collington Winter Environmental October 2022 and the accompanying Biodiversity Metric 3.1. The LBEMP should combine both the ecology and landscape disciplines and shall be suitable to provide to the management body responsible for the site. It shall include the following:

a) Description and location of features to be retained, created, enhanced and managed, as per the approved biodiversity metric.
b) Aims and objectives of management, in line with desired habitat conditions detailed in the metric.
c) Appropriate management methods and practices to achieve aims and objectives.
d) Prescriptions for management actions.
e) Preparation of a management work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).
f) Details of the body or organization responsible for implementation of the plan.
g) A monitoring schedule to assess the success of the habitat creation and enhancement measures
h) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.

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i) Detailed habitat enhancements for wildlife including a reptile hibernacula,
k) Requirement for a statement of compliance upon completion of planting and enhancement works.

The LBEMP shall also include details of the legal and funding mechanism(s) by which the long term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan shall be implemented in accordance with the
approved details.

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

18. Prior to installation a detailed external lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. All works shall be fully implemented in accordance with the approved scheme prior to installation.

    Reason: To ensure that the development does not appear as an unduly prominent feature in the area, in the interests of amenity and ecology in accordance with saved policies EN13 and EN16 of the Adopted Amber Valley Borough Local Plan 2006.

19. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping. 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.

    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 ER11 of the Adopted Amber Valley Borough Local Plan 2006.

20. The hereby approved development shall be carried out with the materials shown on the following approved plans:

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- Unit 1 - Elevations as Proposed drawing no. 19103-C4P-V1-ZZ-DR-A-2100 Rev 6; and,
- Unit 2 - Elevations as Proposed - drawing no. 19103-C4P-V2-ZZ-DR-A210 Rev 5.

Reason: For the avoidance of doubt and to ensure the satisfactory appearance of the completed development in accordance with saved policies LS3 and ER11 of the Adopted Amber Valley Borough Local Plan 2006.

21. Once the end-users have been identified, and prior to occupation of the units, the environmental noise assessment ('Assessment of noise impact of proposed industrial units', ref: ARR/PPN/C/3141.01, ADC Acoustics, 27.03.2020) shall be reviewed to rate and assess sound from all industrial and manufacturing processes; from fixed installations comprising mechanical and electrical plant; from the loading and unloading of goods and materials; and from mobile plant and vehicles on the site, in accordance with the methodology in British Standard 4142:2014+A1:2019 'Methods for rating and assessing industrial and commercial sound'.
All noise-sensitive receptors shall be protected from associated noise such that the rating level does not exceed the background sound level (an indication of the specific sound source having a low impact, depending on the context) at their location.
The units shall not be occupied until details of the noise mitigation measures, necessary to comply with the above, have been submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out and maintained in accordance with the approved details and completed under the supervision of an acoustic engineer, where necessary.
Should the plans alter from those on which the agreed noise assessment is based, a review of the assessment and proposed mitigation measures shall be submitted to, and approved in writing by, the Local Planning Authority before construction commences.
If required by the Local Planning Authority following occupation, an assessment of noise emissions in-situ shall be submitted to, and approved in writing by, the Local Planning Authority to confirm that the noise emission limits are being met.

    Reason: In the interest of residential amenity in accordance with saved policy EN16 of Amber Valley Borough Local Plan 2006.

22. Tonal (high-pitched) reversing alarm systems shall not be used outside the buildings, or with the building doors open, between 08:00 and 18:00hrs.

    Reason: In the interest of residential amenity in accordance with saved policy EN16 of Amber Valley Borough Local Plan 2006.

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23. No permanent external lighting shall be installed until the following information has been submitted to, and approved in writing by, the Local Planning Authority. All works shall be fully implemented in accordance with the approved scheme before its use commences, and maintained as such:
a) A site plan showing the proposed locations and mounting heights of all external luminaires;
b) Full details, including pictures, of all external luminaires to be installed;
c) A site plan plotting predicted horizontal and vertical illuminance levels (in lux) across the site boundaries and at the nearest light-sensitive dwellings around the new installation (including existing light trespass);
d) The tilt angle of all external luminaires; the proposals for addressing glare (e.g. appropriate height; bulb type; minimal aiming angles; use of a cowl/hood/shield/integral louvres); and the incorporation of a 'dark skies friendly' fitting with an Upward Light Ratio (ULR) of 0% to limit sky glow and minimise visual intrusion in the open landscape;
e) Operating times, including the use of timers or passive infra-red detectors.

Reason: In the interest of residential amenity in accordance with saved policy EN16 of Amber Valley Borough Local Plan 2006.

24. 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.

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Reason: In the interest of residential amenity in accordance with saved policy EN16 of Amber Valley Borough Local Plan 2006.

Notes

Attention is drawn to the attached notes:

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
ER4 - Industrial and storage development
ER11 - Quality and design of development
TP1 - Impact on the Transport Network
TP6 - Parking
EN13 - Nature Conservation
EN15 - Development and Flood Risk
EN16 - Pollution
EN18 - Derelict, Unstable And Contaminated Land

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.**