Simon Gladwin
Executive Director (Operations)
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/2023/0477**) which was valid on the 16 August 2023 for permission for **Erection of information hub, timber play equipment play area, steel fungi-sculpture shelter, compost toilet and viewing platform at Land At Smalley Bell Lane Smalley.**

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 and documents listed below:

   Application Form received on 16th August 2023
   Location Plan (drawing number 2211_57 Rev B) received on 16th August 2023
   Ground Floor Plan Viewing Tower received on 16th August 2023
   Viewing Platform Plan received on 16th August 2023

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Viewing Platform Front Elevation received on 16th August 2023
Viewing Platform Plan View received on 16th August 2023
Viewing Platform Rear Elevation received on 16th August 2023
Viewing Platform Section Thru A received on 16th August 2023
Viewing Platform Side 1 Elevation received on 16th August 2023
Viewing Platform Side 2 Elevation received on 16th August 2023
Composite Toilet Elevations and Floor Plan (drawing number 2211_58) received on 16th August 2023
Fungi Shelter Elevation Drawing (drawing number 2211_59) received on 16th August 2023
Proposed Timber Framed Open Fronted Information Hub Building received on 16th August 2023
Construction Detail Proposed Composite Toilet (drawing number 2211_56) received on 16th August 2023
Proposed Compost Toilet Site Plan (drawing number 2211_53) received on 16th August 2023
Proposed Fungi Shelter Location (drawing number 2211_52) received on 16th August 2023
Proposed Information Hub Location (drawing number 2211_51) received on 16th August 2023
Proposed Viewing Platform Location (Drawing number 2211_54) received on 16th August 2023
Viewing Platform Details received on 16th August 2023
Proposed Block Plan (drawing number 2211_55) received on 16th August 2023
Design and Access Statement (dated June 2023) received on 16th August 2023
Mushroom Specification received on 16th August 2023
Play Equipment Specification received on 16th August 2023

Reason: In order to define the permission.

3. The hereby approved development shall be carried out in strict accordance with the details of the Construction Environmental Management Plan: Biodiversity Document produced by Appletons, November 2023. 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.

4. Prior to the installation of any lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the Local Planning Authority to safeguard bats and other nocturnal wildlife. Such approved measures will be implemented in full.

   Reason: In the interests of the protection of wildlife in accordance with Policy EN13 of the Adopted Amber Valley Borough Local Plan 2006.

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Notes

Attention is drawn to the attached notes:

1 The applicant is advised of the following from Derbyshire County Council's Public Rights of Way Officer:

- The footpaths must remain open, unobstructed and on their legal alignments.
- There should be no disturbance to the path surfaces without prior authorisation from the Rights of Way Section.
- Consideration should be given to the safety of members of the public using the paths during the works. Suitable signage should be erected to warn construction traffic that pedestrians may cross the access road in the locations shown.
- There should be no encroachment of the paths, and no fencing should be installed without consulting the Rights of Way Section.
- As Bell Lane is a Public Bridleway (Shipley BW 5 and Smalley BW 43), consideration should be given to erecting such warning signs as may be appropriate to protect the safety of bridleway users going forward.

2 The proposed development lies within an area that has been defined by the Coal Authority as containing coal mining features at surface or shallow depth. These features may include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. Although such features are seldom readily visible, they can often be present and problems can occur, particularly as a result of new development taking place.

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design which takes into account all the relevant safety and environmental risk factors, including mine gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at

www.gov.uk/government/publications/building-on-or-within-the-influencingdistance-of-mine-entries

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities

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could include site investigation boreholes, excavations for foundations, piling activities, other ground works and
any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain permission to enter or disturb our property will result in the potential for court action. If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at:

www.gov.uk/government/organisations/the-coal-authority

3 "The applicant is strongly urged to help meet the Government's commitments to achieve net-zero carbon emissions by 2050, and to meeting the NPPF's environmental objective of mitigating and adapting to meet climate change, including moving to a low carbon economy. Therefore, the applicant is strongly urged to include on-site renewable energy generation (e.g. solar panels), the de-carbonising of heating systems (e.g. air-/ground-source heat pumps) and enhanced levels of insulation beyond those required by present building standards."

Advice in relation to sustainable energy measures and any need for planning permission can be found at

https://www.planningportal.co.uk/info/200125/do_you_need_permission

4 In relation to condition 4, the lighting strategy should provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Dependent on the scale of proposed lighting, a lux contour plan may be required to demonstrate acceptable levels of light spill to any sensitive ecological zones/features. Guidelines can be found in Guidance Note 08/23 - Bats and Artificial Lighting at Night (BCT and ILP, 2023).

5 No vegetation clearance shall 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 will be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.

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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:

LS2 - Community Safety
LS3 - Design
LS1 - Sustainability criteria
EN2 - Green Belt
EN8 - Landscape Features
EN13 - Nature Conservation
EN16 - Pollution
EN18 - Derelict, Unstable And Contaminated Land

In detail:

The development complies with the provisions of the development plan for the locality and raises no unresolved issues in relation to privacy, amenity, sunlight/daylight, character and design, landscape or heritage features and highway safety.

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.