S Gladwin
Chief Executive

Development Management
Town Hall Ripley
Derbyshire DE5 3BT
Tel: 01773 570222 Fax: 01773 841523
Minicom: 01773 841490
E-Mail: enquiry@ambervalley.gov.uk
Web: www.ambervalley.gov.uk

Mr Malcolm Sutton
Postern Lodge Farm
Cowers Lane
Belper
DE56 2LS
Derbyshire

Mr Paul Gaughan
Paul Gaughan Building Consultants Limited
Unit E14
Langham Park Ind Est, Lows Lane
Stanton By Dale
Ilkeston
DE7 4RJ

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/2023/0232**) which was valid on the 24 March 2023 for permission for **Outline Planning permission for 27 dwellings which would comprise of 2 bed semi-detached x 12 units, 3 bed semi-detached x 8 units, 3 bed detached x 1 unit, 4 bed detached x 6 units, with Appearance, Landscaping and Scale reserved for subsequent approval. (Affects the setting of the Listed Building and Departure from the Local Plan) (Major Development) at Land North of Goodwins Lane Hazelwood.**

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 proposal fails to be environmentally sustainable by virtue of the harm caused to the prevailing character and appearance of the area and wider landscape and countryside. The high quality of the open countryside is an important planning attribute of the area and the proposed development would represent a harmful urban encroachment into the open and undeveloped countryside. Accordingly, the proposal would undermine the development strategy set out under paragraphs 12, 15 and 180 under the provisions of the NPPF. The proposal is also contrary to Paragraph 8 of the NPPF, which states that there are three dimension to sustainable development; economic, social and environmental which must be read together as they are mutually dependent in the interest of ensuring a sustainable form of development is provided, and contrary to saved policy LS1 of the Adopted Amber Valley Borough Local plan 2006 and Policy NP1 of the Hazelwood Neighbourhood Plan 2016.

2. The proposed development, by virtue of its prominent location, the loss of roadside hedgerow, the design of the proposed access, amount and the layout of the development as shown on the submitted plan would have an urbanising impact and

would be harmful to the rural character and visual appearance of the area, would harm local distinctiveness and would fail to integrate with the established pattern of existing development and landscape character. The proposal is therefore contrary to the provisions of saved policies LS3 and EN7 of the Adopted Amber Valley Borough Local Plan 2006. The proposal would also be contrary to Policy NP1 of the Hazelwood Neighbourhood Plan 2016, which supports new build homes on sites within and well integrated within the groups of continuous buildings forming settlements at Over Lane and Policy NP6 which supports development which does not represent a significant visual intrusion into the landscape setting.

3. By virtue of its location, scale, form, amount and layout, the development would be intrusive in the views along Over Lane and in design terms has a large and incongruous visual presence which would affect the tranquillity of the setting of the Grade II Listed church and Non-Designated Heritage. Although located on the opposite side of Over Lane, the application site as open field with many trees is a complimentary factor to this setting and experience. The retention of the hedgerow around the site cannot remove harmful impacts. There are no mitigation measures shown on the layout plan that could be accepted as sufficient to mitigate this harm. The level of harm caused is ‘less than substantial' to the setting of the Grade II Listed church. However, in terms of meeting the requirements of paragraphs 208 and 209 of the NPPF and balancing 'less than substantial harm' to the setting of the Grade II Listed church and non-designated heritage assets, there is no presently a need to release the site for any housing and together with other public benefits do not outweigh the harm to be caused to the setting of these designated and non-designated heritage assets. As such, the proposal is contrary to Policy EN24 of the adopted AVBC Local Plan and paragraphs 206 of the NPPF.

4. The application has failed to demonstrate that the loss of biodiversity can be adequately mitigated and compensated for within the site and/or adjacent land. This is contrary to paragraphs 186 (a) and (d) of the NPPF. The proposal is also contrary to saved policy EN13 of the Adopted AVBC Local Plan, which states that development will not be permitted which would have an adverse impact upon species specifically protected under the schedule of the Wildlife and Countryside Act 1981 (as amended) or the Protection of Badger Act 1992 or that are listed as National Rare, policy NP5 of the Neighbourhood Plan, which requires all developments to conserve and enhance the biodiversity.

5. Insufficient information is provided to demonstrate that the proposed layout takes account a range of sustainable drainage systems, together with robust evidence if they are not deemed appropriate or possible and include multifunctional benefits these would provide in terms of water quality, amenity and biodiversity have been considered as part of the proposed layout and how the proposal would integrate with the infrastructure of the development. Therefore, the proposal is contrary to paragraph 175 of the NPPF which requires all major developments to incorporate sustainable drainage systems unless there is clear evidence that this is not appropriate and where possible, provide multifunctional benefits. The proposal also does not accord with saved policy EN15 of the Adopted AVBC Local Plan.

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 to try and address the issues associated with the proposal. This includes the request for amended plans/additional information, allowing a delay in the determination of the application to give the applicant the opportunity to address the concerns, however, the issues have failed to be resolved.

Date: 30 January 2024

Signed

Simon Gladwin
Chief Executive

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.**