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Chief Executive
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/2023/0010**) which was valid on the 18 April 2023 for permission for **Demolition of garage building. Replacement two-storey commercial development with 14Nr. retail/ office units with associated landscaping at Toms Car Wash Tom And Sons Limited Campbell Street.**

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 development 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 hereby approved development shall be carried out in accordance with the following approved documents and drawings:
   Location Plan - Drg. No. P01, Rev. A
   Site Plan (inc. Roof Plan) as Proposed - Drg. No. P09, Rev. E
   Ground Floor Plan as Proposed - Drg. No. P10, Rev. E
   First Floor Plan as Proposed - Drg. No. P11, Rev. E
   Elevations as Proposed - Drg. No. P12, Rev. D

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Elevations as Proposed - Drg. No. P13, Rev. D
Heritage Statement, prepared by Cymes Conservation, March 2023, Version V2
Internal/External Bat Survey, dated September 2023
Design and Access Statement, dated September 2022

Reason: To define the terms of the permission.

3. Notwithstanding the provisions contained within the Town and Country Planning (Use Classes) Order 1987 (or any Order revoking and re-enacting that Order) this permission shall relate to the use of the premises only for the purposes defined in Class E(a)(c)(e) and (g) and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

   Reason: In order to ensure the safety of the development, minimise noise, air, light and disturbance to the local residence, highway safety and in accordance with saved policies TP1, EN16 and EN18 of the Adopted Amber Valley Borough Local Plan 2006 and paragraphs 135 and 191 of the National Planning Policy Framework.

4. Notwithstanding any description/details of external materials in the application documents, no above ground construction works shall commence unless and until samples of the materials to be used in the construction of the external walls and roof of the building have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be finished in accordance with the approved materials.

   Reason: To ensure the works are carried out in a way which respects the appearance and character of the area in accordance with policies LS3, EN26 and EN29 of the Adopted Amber Valley Borough Local Plan 2006.

5. Notwithstanding any description/details in the application documents, no above ground construction works shall commence until details of the siting, height, design, materials and colour finish of all site boundary walls, fences or other means of enclosure have been submitted to and approved by the Local Planning Authority. Thereafter, the approved boundary treatment shall be provided before the first occupation of the development and shall thereafter be retained.

   Reason: To ensure the works are carried out in a way which respects the appearance and character of the area in accordance with policies LS3, EN26 and EN29 of the Adopted Amber Valley Borough Local Plan 2006.

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6. Notwithstanding any description/details in the application document, no above ground construction works shall commence until details of the design and external materials used in construction of the bin storage area, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.

   Reason: To ensure the works are carried out in a way which respects the appearance and character of the area in accordance with policies LS3, EN26 and EN29 of the Adopted Amber Valley Borough Local Plan 2006.

7. Notwithstanding any description/details in the application documents, no above ground construction works shall commence until details of both hard and soft landscaping works have been submitted to and approved in writing by the Local Planning Authority prior to commencement of the development hereby permitted. Hard landscaping details shall include hard surfacing material, including pavement and the soft landscaping details shall show a planting scheme which includes a schedule of plants noting species, plant sizes and proposed numbers/densities. The hard and soft landscaping works shall thereafter be provided before the development is first brought into use. Any plant or trees in the planting scheme that are removed, die or become seriously damaged or diseased within a period of 5 years from the date of planting shall be replaced with others of similar size and species in the next planting season, unless the Local Planning 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 LS3, EN7, EN26 and EN29 of the Adopted Amber Valley Borough Local Plan 2006.

8. The use(s) hereby permitted shall not be open to customers, and no deliveries shall be taken at or despatched from the site, other than between 09:00 and 17:30 hours on Mondays to Saturdays, and at no time on Sundays of bank holidays.

   Reason: To safeguard the amenities of the occupiers of the nearest dwellings in accordance with saved policy EN16 of the Adopted Amber Valley Borough Local Plan 2006.

9. The first window/glazed opening(s) on east facing elevations shall be of a non-opening design and shall incorporate measures to obscure direct views from 1.7 metres above the internal finished floor level. The windows/openings shall not be replaced or altered without the prior written permission of the Local Planning Authority.

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Reason: To safeguard the privacy of occupiers of the properties on the opposite side of the street in accordance with paragraphs 135 and 191 of the NPPF.

10. No externally mounted/ducted plant, machinery or equipment, including air source heat pumps, shall be installed, until and unless such details of any noise emissions, operating hours and location have been first submitted to and approved in writing by the Local Planning Authority. If required by the Local Planning Authority, an assessment of noise emissions shall be submitted to, and approved in writing by, the Local Planning Authority and the emission or transmission of sound mitigated in accordance with a scheme to be approved in writing by the Local Planning Authority. The development shall be carried out and maintained in accordance with the approved scheme.

    Reason: to safeguard the amenities of the occupiers of the nearest dwellings in accordance with saved policy EN16 of the Adopted Amber Valley Borough Local Plan 2006.

11. No permanent external lighting (including illuminated signage) shall be installed unless full details of its design, location, illuminance levels, orientation and operating times have first been agreed with the Local Planning Authority. All works shall be fully implemented in accordance with the approved scheme before use commences.

    Reason: to safeguard the amenities of the occupiers of the nearest dwellings in accordance with saved policy EN16 of the Adopted Amber Valley Borough Local Plan 2006.

12. All 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 the guidance in British Standard BS 5228-1:2009+A1:2014 'Code of practice for noise and vibration control on construction and open sites - Part 1: Noise' (Section 8 and Annex B) and Part 2: Vibration' (Section 8).
    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

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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.

Reason: to safeguard the amenities of the occupiers of the nearest dwellings in accordance with saved policy EN16 of the Adopted Amber Valley Borough Local Plan 2006.

13. Prior to building works commencing above foundation level, a Biodiversity Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority to achieve a net gain in biodiversity in accordance with the National Planning Policy Framework. Measures shall include (but are not limited to) the following:
    - 2 x Integrated Bat Bricks at eaves level
    - 2 x Integrated Universal Next Bricks at eaves level
    - 2 x Insect bricks/houses/towers.

    Such approved measures shall be implemented in full and maintained thereafter.

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

14. a) No development shall commence until:
    i. The approved development site has been subject 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 have been submitted to 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 to and approved in writing by the Local Planning Authority.
    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 to and approve 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.

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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 the 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. This is in line with paragraphs 183 and 184 of the National Planning Policy Framework.

15. Throughout the construction phase, space shall be provided within the site curtilage for storage of plan and materials, site accommodation, loading and unloading of good vehicles, parking and manoeuvring of site operatives and visitors vehicles.

    Reason: In the interests of the safety of the users of the access and public highway safety in general in accordance with policy TP1 of the Adopted Amber Valley Borough Local Plan 2006.

16. The premises, hereby permitted, shall not be taken into use, until the existing vehicular access to Campbell Street is permanently closed with a physical barrier and the existing vehicle crossover reinstated as footway in a manner to be first agreed in writing by Local Planning Authority in consultation with the Derbyshire County Council Highway Authority.

    Reason: In the interests of the safety of the users of the access and public highway safety in general in accordance with policy TP1 of the Adopted Amber Valey Borough Local Plan 2006.

17. The premises hereby permitted, shall not be taken into use until space has been provided within the site in accordance with the approved drawings for the parking and manoeuvring of staff and customers vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

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Reason: In the interests of the safety of the users of the access and public highway safety in general in accordance with policy TP1 of the Adopted Amber Valley Borough Local Plan 2006.

18. No chairs or tables shall be sited within the area identified as 'PIAZZA' on the approved plan titled 'Ground Floor Plan as Proposed - Drg. No. P10, Rev. E', unless otherwise first agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenities of the occupiers of the nearest dwellings in accordance with saved policy EN16 of the Adopted Amber Valley Borough Local Plan 2006.

Notes

Attention is drawn to the attached notes:

1 The applicant should note the following advice:
Arrangements for dealing with any asbestos-containing materials (ACMs) known, or subsequently found, on site are regulated by the Health and Safety Executive (HSE). All licensable and non-licensable work must comply with the general requirements of the Control of Asbestos Regulations, Approved Code of Practice and guidance to ensure the protection of workers and the general public from asbestos exposure resulting from work activities. All non-licensed and notifiable non-licensed work with asbestos still needs a risk assessment and must be carried out with the appropriate controls in place; those carrying out the work must have had the correct level of information, instruction and training to protect themselves and others in the area from the risks to health that exposure to asbestos causes.
The developer should seek professional advice if they suspect ACMs are present on any building to be demolished or altered. The developer/landowner/manager may be liable if they fail to identify and manage any ACM appropriately. More information regarding ACMs can be found on the Health and Safety Executive's (HSE's) web page: www.hse.gov.uk/asbestos.
Complaints about nuisance and/or health concerns received by the Borough Council's Pollution Control Team will be investigated or passed to the relevant enforcement agency. Sites may therefore be inspected to ensure that these materials are being safely handled, stored and disposed of and contractors may be required to provide appropriate documentation. It is the developer's responsibility to identify all asbestos-containing materials on the site, where it is and its type and condition, to assess the risks and to manage and control these risks.

2 The developer is advised to note the following:
1) Pursuant to Section 127 of the Highway Act 1990, no work may commence without the limits of the public highway to close any redundant accesses and to reinstate the

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footway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works. Advice regarding the technical, legal, administrative and financial processes involved in Section 127 Agreements may be obtained by contacting this Authority via email highways.hub@derbyshire.gov.uk. The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 127 Agreement.
2) The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chipping or gravel etc.). in the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the householder.
3) Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway, measures shall be taken to ensure that surface run-off from within the site is not permitted to discharge across the footway margin. This usually taken the form of a dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
4) Pursuant to Section 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads int eh vicinity of the site to a satisfactory level of cleanliness.
5) The proposed buildings shall be a minimum of 2.4m from Campbell Street carriageway and no part of the buildings or the foundations shall be within or under the public highway.

3 The developer should note The Coal Authority's Standing Advice in the interests of public health and safety.

4 In relation to condition 13 (above) in relation to Biodiversity Enhancement, the developer should note that the soft landscaping should include planters, green walls or climber plants into the development to enhance ecological value.

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:

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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 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.