S Gladwin
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 the policies of the Amber Valley Borough Local Plan 2022-2040, and with reference to your application (**Office Code: AVA/2026/0124**) which was valid on the 2 March 2026 for permission for **Outline application for up to 4 dwellings at Windmill View Nurseries Spanker Lane Nether Heage**

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. Application for approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

   Reason: To prevent the accumulation of planning permissions: to enable the Council to review the suitability of the development in the light of altered circumstances and to comply with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The approval of the Borough Council shall be obtained prior to the commencement of any development in respect of the access to, appearance, landscaping, layout and scale of the buildings.

   Reason: To comply with Section 92 of the Town and Country Planning Act 1990.

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3. The development hereby permitted shall be carried out only in accordance with the details and specifications shown on the amended drawing 3604-04 and 0674-03 Rev B received on 25.03.2026.

   Reason: To ensure that the development takes the form envisaged by the Local Planning Authority when determining the application in accordance with policy EN15 of the Adopted Amber Valley Borough Local Plan 2026.

4. Prior to the submission of the reserved matters application a scheme of intrusive site investigations shall be carried out on site to establish the risks posed to the development by past coal mining activity.

   Reason: The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 187, 196 & 197 of the National Planning Policy Framework.

5. No development shall commence until any remediation works 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. The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

   Reason: The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 187, 196 & 197 of the National Planning Policy Framework.

6. 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.

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Reason: The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 187, 196 & 197 of the National Planning Policy Framework.

7. Prior to commencement of the development hereby permitted (including demolition works) details of a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the construction period.

   Reason: In the interests of safe operation of the adopted highway during the demolition and construction phases of the development.

8. The development hereby permitted shall not commence until a scheme of site access works has first been submitted to and approved in writing by the Local Planning Authority. No part of the development hereby permitted shall be occupied until the approved scheme has been implemented to the satisfaction of the Local Planning Authority. The approved scheme shall be maintained for the life of the development. The scheme shall include the following details:
   o A minor road visibility setback distance of 2.4m, measured along the centre line of the site access from the southern carriageway edge on Spanker Lane.
   o Major Road visibility splay distances of 43m shall be measured along the southern carriageway edge along Spanker Lane on both sides of the site access centre line.
   o the resulting visibility splay envelopes shall be permanently maintained clear of obstruction above 0.6m in height above adjacent carriageway level.
   o The width of the footway crossing serving the driveway shall correspond to the full width of the driveway, plus two dropper kerbs.
   o The shared driveway shall have a minimum width of 4.8m for the first 8m measured from the back of the southern footway on Spanker Lane. Where it falls within the highway the hard surfaced crossing and driveway should be constructed in accordance with the highway authority's specification.
   o Feature(s) to safeguard pedestrians at the site access adjacent Nether Heage Recreation Ground, i.e. physical barrier, safe standing space for pedestrians to wait adjacent to the driveway, surface markings/lettering, and/or signage.
   o Space to allow two cars to pass side by side (a minimum 4.1m width) should then be provided every 25m.

   Reason: To ensure the safe and free flow of traffic onto the highway.

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9. No part of the development hereby permitted shall be brought into use until the access driveway is constructed with provision to prevent the unregulated discharge of surface water to the public highway in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development.

   Reason: To ensure that surface water from the site is not deposited on the public highway causing danger to road users.

10. No part of the development hereby permitted shall be brought into use until a hard surfaced footway crossing to serve the driveway from Spanker Lane is available for use and has been constructed in accordance with the highway authority's specification to the satisfaction of the Local Planning Authority. The footway crossing shall correspond to the full width of the driveway plus two dropper kerbs.

    Reason: In the interest of highway safety.

11. No part of the development hereby permitted shall be brought into use until the driveway is surfaced in a bound material, along the full width of the driveway for a minimum length of 5m within the site measured from the highway boundary, in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. This area of driveway shall be maintained in the bound material for the life of the development.

    Reason: In the interest of highway safety.

12. Any reserved matters application shall be supported by an arboricultural report in the format of BS5837:2012 'Trees in relation to design, demolition and construction - Recommendations' to support the application. This should include an up-to-date Arboricultural Impact Assessment; Tree Protection Plans and appropriate Arboricultural Method Statements (as per section 5 & 6 of BS5837:2012)

    Reason: To retain existing trees and hedges wherever possible in accordance with policy EN1 (f) of the adopted Amber Valley Borough Local Plan 2022-2040. To retain features such as walls, hedgerows, trees and important open spaces that make a positive contribution to the character and appearance of conservation areas and contribute to the setting of heritage assets in accordance with policy EN4 (c) of the adopted Amber Valley Borough Local Plan 2022-2040. To retain features which contribute to the landscape character of the area including hedgerows, trees, woodland, field boundaries, waterbodies and watercourses, in accordance with policy EN7 of the adopted Amber Valley Borough Local Plan 2022-2040. To provide areas of

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natural greenspace, including trees and woods in accordance with policy EN9 (e) of the adopted Amber Valley Borough Local Plan 2022-2040. To retain existing trees and hedgerows and incorporate new trees and hedgerows where possible, including new streets in accordance with policy EN15 (r) of the adopted Amber Valley Borough Local Plan 2022-2040

13. No development shall take place until a Biodiversity Gain Plan has been submitted to and agreed in writing by the Local Planning Authority.

    The content of the Biodiversity Net Gain report shall include the following:

    -Baseline data collection and assessment of current conditions on site;
    -A commitment to measures in line with the Mitigation Hierarchy and evidence of how Biodiversity Net Gain (BNG) Principles have been applied to maximise benefits to biodiversity;
    -Provision of the full BNG calculations, with detailed justifications for the choice of habitat types, distinctiveness and condition, connectivity and ecological functionality;
    -Details of the implementation measures and management of proposals;
    -Details of off-site provision to be secured by a planning obligation;
    -Details of the monitoring and auditing measures.

    The proposed enhancement measures shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

    Reason: In the interests of ensuring measurable net gains to biodiversity and in accordance with the National Planning Policy Framework and Schedule 7A Town and Country Planning Act (inserted by the Environment Act 2021).

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Notes
Attention is drawn to the attached notes:

1 Planning permission does not convey consent to work on or adjacent to the public highway.

The proposed development requires the construction of a footway crossing to highway authority specification.

Prior to any works commencing on site, including demolition works, the developer must obtain the highway authority's consent.

The developer must obtain a license under Section 184 of the Highways Act 1980 before commencing any works on the highway. Details are available at: www.derbyshire.gov.uk/transport-roads/roads-traffic/licences-enforcements/vehicular-access/vehicle-accesses-crossovers-and-dropped-kerbs.aspx or email highways.hub@derbyshire.gov.uk

2 The deposit of mud or other items, and/or the discharge of water, onto the public highway are offences under Sections 149 and 151, Highways Act 1980. The applicant, any contractors, and the owner/occupier of the land must therefore ensure that nothing is deposited on the highway, nor that any soil or refuse etc is washed onto the highway, from the site. Failure to prevent this may force the highway authority to take both practical and legal action (which may include prosecution) against the applicant/contractors/owner or occupier of the land.

3 The applicant is informed that ss part of the reserved matters application, a Report shall be submitted in order to present the findings of the site investigations and outline any remedial and / or mitigation measures to address land instability arising from coal mining legacy, as may be necessary. This should include the submission of the proposed layout plan to illustrate the exact location and delineation of the opencast highwall (if found) to demonstrate how this feature relates to the layout being considered. Where possible no buildings / structures should straddle the highwall.

4 Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Mining Remediation Authority Permit. Such activities 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. Application forms for Mining Remediation Authority permission and further guidance can be obtained from The Mining Remediation Authority's website at: www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property

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What is a permit and how to get one? - GOV.UK (www.gov.uk)

5 In areas where shallow coal seams are present caution should be taken when carrying out any on site burning or heat focused activities.
If any future development has the potential to encounter coal seams which require excavating, for example excavation of building foundations, service trenches, development platforms, earthworks, non-coal mineral operations, an Incidental Coal Agreement will be required. Further information regarding Incidental Coal Agreements can be found here - https://www.gov.uk/government/publications/incidental-coal-agreement/guidance-notes-for-applicants-for-incidental-coal-agreements.

6 regarding condition 12 the tree report should include the following:
O A survey of all trees which are likely to be impacted upon by the proposed development, with details and categorisation results provided in `an appropriate schedule (a per BS5837:2012 sections 4.4 - 4.6)
O Trees clearly identified as either retained or removed (including trees on land adjacent to the site with canopies or RPAs which encroach onto the site).
O Clear specifications for all proposed management works to retained trees.
O A realistic assessment of the probable impacts between the trees and development (as per BS5837:2012 section 5.3.4).
O Root protection areas (RPA) and construction exclusion zones.
O Exclusion zone protective barriers (giving precise locations and specification).
O The position of all new underground services in relation to RPAs.
O Detailed specification and installation method statement for any proposed new structure, hardstanding, underground service or works access into RPAs.
O Method statements for all other construction operations which impact on trees.
O Positions and specification (following BS8545:2014 'Trees: from nursery to independence in the landscape - Recommendations' as appropriate) for all new tree planting.
O Reinstatement and ground preparation for new tree planting and areas of soft landscaping.

7 In regard to condition 7 The plan shall include but not be restricted to providing details of:
a) Parking of vehicle of site operatives and visitors.
b) Measures to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction.
c) Measures to maintain safe and free flow of traffic along Spanker Lane.
d) Measures to maintain safe pedestrian access to Nether Heage Recreation Ground.
e) Locations for loading/unloading and storage of plant, waste and construction materials.
f) Methods of preventing mud and dust being carried onto the existing highway.

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g) Arrangements for turning vehicles.
h) Methods of positively communicating the Construction Traffic Management Plan to staff, visitors and neighbouring residents and businesses.

8 In regard to condition 8 The approved scheme shall be maintained for the life of the development. The scheme shall include the following details:
o A minor road visibility setback distance of 2.4m, measured along the centre line of the site access from the southern carriageway edge on Spanker Lane.
o Major Road visibility splay distances of 43m shall be measured along the southern carriageway edge along Spanker Lane on both sides of the site access centre line.
o The resulting visibility splay envelopes shall be permanently maintained clear of obstruction above 0.6m in height above adjacent carriageway level.
o The width of the footway crossing serving the driveway shall correspond to the full width of the driveway, plus two dropper kerbs.
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o Feature(s) to safeguard pedestrians at the site access adjacent Nether Heage Recreation Ground, i.e. physical barrier, safe standing space for pedestrians to wait adjacent to the driveway, surface markings/lettering, and/or signage.
o Space to allow two cars to pass side by side (a minimum 4.1m width) should then be provided every 25m.

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Reasons for 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 relevant Neighbourhood Plans, and policies of the Amber Valley Borough Local Plan 2022-2040;

SS3 - Settlement Hierarchy
SS8 - Green Belt
EN11 - Derelict, Unstable & Contaminated Land
IN1 - Transport
H1 - Within Adjacent to Urban Areas and Key v
EN1 - Climate Change
EN8 - Biodiversity
EN9 - Biodiversity Gains
SS1 - Presumption in favour of Sustainable

In detail:

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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.**