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harrislamb
PROPERTY CONSULTANCY

Planning
Erewash Borough Council

Grosvenor House
75-76 Francis Road
Edgbaston
Birmingham B16 8SP

BY EMAIL: james.grundy@erewash.gov.uk

T 0121 455 9455
F 0121 455 6595

Dear Sir/Madam

RE: ERE/0722/0038 - Land at Sowbrook Lane, Stanton by Dale – RESPONSE TO PLANNING POLICY COMMENTS

Harris Lamb Planning Consultancy has been instructed by the Applicant to prepare this response to the Planning Policy response. There are some fundamental issues within this response that are leading to the incorrect assessment of this site and this note seeks to correct these.

Below we set out extracts from the Planning Policy consultation response and our response to them.

Weight should still be given to proposals that accord with the Development Plan

“Focusing firstly on the status of the Borough’s Local Plan, the Erewash Core Strategy (ECS) now exceeds five years since adoption. As defined by the NPPF, this makes the ECS ‘out of date’ and diminishes the robustness and level of weight it carries – but particularly in reference to those policies that influence the scale and location of new housing. Another way in which a development plan is deemed out of date is as a consequence of a councils’ failure to identify a five-year supply of deliverable housing land. Whilst work to review and update the Council’s SHLAA document ahead of the forthcoming submission of the Core Strategy Review (CSR) is ongoing, the last reported position in respect of Erewash’s housing land supply (December 2019) saw the identification of a 3.43 year supply. Combined with out of date housing policies in the ECS, this demonstrates that all housing proposals should be considered in the context of NPPF Paragraph 11d”.

Our response:

- It is agreed that the strategic policies in the development plan are out of date for the reasons stated; **however**, this simply means that the weight to be given to any conflict with these policies should be reduced accordingly. It does not mean that weight should not be given in favour of a proposal that accords with the provisions of

BIRMINGHAM
0121 455 9455

NOTTINGHAM
0115 947 6236

STOKE-ON-TRENT
01782 272555

WORCESTER
01905 22666



the development plan in accordance with S.38(6) of the Planning and Compulsory Purchase Act 2004.

- In this context, we note that the response from Planning Policy does not acknowledge that the application site adjoins the Ilkeston Urban Area and is, therefore, at the top of the Settlement Hierarchy as established in Policy 2 of the Erewash Core Strategy (ECS). The application site is, therefore, in a location where new housing is expected to be delivered and this remains a significant benefit of the Scheme.
- The fact remains that the application site is one of the few non-Green Belt sites that is available to assist with rectifying the significant five year shortfall as identified by the Council's own assessment. Sites like this on the edge of the main urban area are, therefore, the only option available to rectifying the housing land supply and achieving the objective set out in the National Planning Policy Framework to boost significantly the supply of housing. This is another significant benefit of the scheme.

Weight to be given to the emerging Core Strategy Review (CSR)

"As stated above, the Council is preparing to submit its CSR to the Secretary of State for independent examination. In March 2022, the Council undertook public consultation over a Publication (Regulation 19) version of its Review. It is worth considering at this point the provisions of Paras 48 & 49 of the NPPF. This enables councils to give weight to relevant policies in emerging plans according to:

- a) The stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*
- b) The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- c) The degree of consistency of the relevant policies in the emerging plan to the NPPF (the closer the policies in the emerging plan to the policies of the NPPF, the greater the weight that may be given).*

With the Council having completed Regulation 19 consultation, it is felt that the policies within the CSR are sufficiently advanced in their preparedness to carry weight in providing direction over decisions on any applications not in conformity with the emerging policy framework".

Our response:

- Contrary to the above, there are multiple appeal decisions that concluded only limited weight should be given to emerging policies at the pre-submission stage. This being before the extent of unresolved objections and the degree of consistency of the Framework have been considered.

- **Unresolved objections** - The applicant has submitted objections to the changes proposed to the status of the application site in the CSR, which were only introduced at the pre-submission stage. Our objection raised fundamental issues that undermine the proposed extension of the Green Belt on to the application site and the inclusion of the site in a proposed Green Infrastructure corridor. The reasons for this are set out below.
- **Degree of consistency with the Framework** - It is evident from a review of the emerging Local Plan that the proposed changes effecting the site do not comply with the Framework. These can be summarised as follows:-
 - No exceptional circumstances have been presented in the CSR or the evidence base to justify the extension of the Green Belt to include the application site contrary to Paragraph 139 of the Framework.
 - The application site does nothing to contribute to the original purposes of the Green Belt in Erewash which was to stop the conurbations of Nottingham and Derby from joining one another. Instead, the site forms a natural infill on the edge of Ilkeston urban area, which is the main urban area in the Borough.
 - The only reason set out for including the application site within the Green Belt is set out in Strategic Policy 1.5 – South West of Kirk Hallam (the policy for the large housing allocation to Kirk Hallam) of the CSR which states that “Land to the south east of this site is added to the Green Belt to ensure the continued separation of Kirk Hallam from Stanton”. However, this does not accord with national policy. Paragraph 138 of the Framework sets out the one of the purposes of including land in the Green Belt is “to prevent neighbouring towns merging into one another”. The Stanton Regeneration Site and Kirk Hallam are part of the same settlement. This is an infill site (which should support its development), not a site that will cause neighbouring towns to merge.
 - In relation to the proposed inclusions of the site within one of the Strategic Green Infrastructure Corridor’s (SGIC), it is evident that the application site does not include any of the features for which this SGIC is proposed to be designated. In this context, there is no reason to include this agricultural field within the SGIC, and that its exclusion would do nothing to undermine the objective for which this SGIC is being proposed.
- Owing to the stage of production, the unresolved objections and the clear conflict with national policy, it is evident that only very little weight should be given to the emerging plan in this context. The site remains on the edge of the Ilkeston urban area and at the top of the Settlement Hierarchy in the adopted plan.

Prematurity should hold no weight against the proposed development

The NPPF is clear however that an application cannot be refused on grounds of prematurity unless both of the following aspects apply:

- a) The development is so substantial, or its cumulative effect would be so significant, that granting consent would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and*
- b) The emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.*

It is arguable that the development proposal, comprising as many as 196 new homes, is of a comparable scale to the CSR allocation sites at North of Spondon (200 homes – SGA26) and North of Cotmanhay (250 homes – SGA7). Both sites are considered strategic in their scale and vital in boosting housing delivery in Erewash. In that respect, the proposed development may be seen to be so substantial that granting consent would undermine the plan-making process because if the site were considered to represent a sustainable location for new housing then it would have been included as a residential allocation in the CSR. As it is, the land the application site sits upon has alternatively been identified by the Council through its CSR as land that should form part of an extended Green Belt designation. Such policy action is deemed necessary as a response to major proposed developments on each side of the application site, emphasising the need to maintain openness between the Borough's largest residential and employment developments.

Our response:

- Contrary to the above, the Framework actually states that “arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both...” (our emphasis). This means that in order for a proposal to fall foul of this there need to be unique local circumstances, which combined with the scale of the development that would fundamentally undermine the strategic objective in the emerging plan if planning permission was granted. In this instance, this is a modest scheme of just 196 dwellings (approx. half a years supply in the emerging plan) next to the main urban area within the Borough. The proposal would accord with the emerging strategy in this context and certainly would not undermine it.
- When considering the criteria within Paragraph 49 of the Framework, what constitutes a site that is “so substantial” has been tested at appeal on a number of occasions. The application site is no where near of a scale that would meet this definition. If the site was 10 times the size, then maybe, but there is no reasonable interpretation that leads to the conclusion that 196 dwellings in the context of the need identified (5800 dwellings or 3.4%) could be considered “so substantial”.

- Similarly, there are no cumulative effects because there are no other sites being brought forward, hence the five-year shortfall.

Furthermore:

- the CSR continues to promote the Ilkeston urban area and sites adjoining it as the main focus for new development (**which the application site accords with**).
- There is also no wider strategic purpose as to why any of the draft allocations have been chosen (**so the development of this site would not prevent that wider strategic purpose being achieved**).
- The application site could be granted permission and there would be no material effect on the emerging strategy or its deliver, other than perhaps providing a slightly greater degree of flexibility in the delivery of the housing target though the provision of an additional site. This being especially true when you consider that the delivery of housing identified in Strategic Policy 1 only meets the Housing Target and allows for no buffer to provide flexibility.

The above notwithstanding, the Planning Policy comments do raise a couple of key points in relation to the method employed for identifying new housing sites in the CSR, which further support why only very limited weight should be attached:

- Why was the application site not assessed as a potential housing site if it was considered to be of a strategic scale?; and
- Why were non-Green Belt sites ignored when considering the location of new development adjacent to Ilkeston?

There is no reason to think that an appropriate relationship could not be achieved with adjoining employment areas

Keeping the application site free of development will also safeguard the residential amenity of occupants of new housing units constructed to the west and the strategic employment zone to the east.

Our response:

- There is no reason to believe that an appropriate relationship could not be delivered between the residential and employment uses.
- It is commonplace to have mixed use urban extensions as this delivers jobs and homes in the same location, thereby reducing the need to travel.
- Indeed, the Stanton Works Site has always been promoted as a mixed-use site and this remains the case, with over a 1000 houses also envisaged to the south of the employment site and next to other existing employment sites.

- The submitted application demonstrates how an appropriate relationship could be secured.

Relationship with the recently permitted employment scheme on the northern part of the Stanton Regeneration Site

The recent granting of outline permission at ERE/1221/0002 for up to approx. 260,000 square metres of new employment facilities east of Ilkeston Road will see the establishment of a strategic industrial zone just a few metres away from the proposal site's eastern boundary. Combined with residential development at the SGA25 strategic allocation projecting southwards from Kirk Hallam and stopping just west of Sowbrook Farm, new housing at the application site would effectively create a contiguous band of development sweeping through from Kirk Hallam all the way around the south of Ilkeston to the eastern edge of the Stanton North employment site.

Our response

- It seems entirely logical to locate employment and housing sites next to one another in a way that allows for a positive movement of residents/employees between them. The presence of a large employment site to the east only supports the location of additional housing in this location to rebalance the mix of uses in line with the adopted allocation.

Urban design, master planning and access by other means of transport to the car

The above confirms that key local services are located relatively distant to the application site, casting significant doubts over the sustainability of development proposals. It is highly likely that occupants of new housing would be heavily reliant on the use of the private car to access the nearest convenience retail facilities, contributing to the promotion of an unsustainable pattern of travel. This is contrary to aspects of provisions set out in ECS Policy 10: Design and Enhancing Local Identity and Policy 14: Managing Travel Demand that will now be explored.

Policy 10 presents a set of design-based criterion that all new development must conform. Its first criterion (1a) requires new development to make a positive contribution to the public realm and sense of place. As already described, the application site is largely disconnected with other areas of development found within the wider environment. This makes developing a cohesive relationship with the wider public realm difficult to achieve given the lack of built environment that immediately surrounds the site. 1c requires new development to have regard to the local context and reinforce valued local characteristics. In similar ways to 1a, a housing scheme at this location will also struggle to achieve this owing to the largely undeveloped

environs the site is situated within. This does not lend itself to the identity of a strong built context. Criterion 1d, addresses the need to reduce the dominance of motor vehicles. This has already been discussed earlier in the Policy response, but it is worth reemphasising the proposed development's remoteness from shopping and convenience facilities. Not only is the physical disconnection from services likely to influence a high level of car dependency, but the movement network radiating out from the application site for pedestrians and cyclists is far from ideal. This sees narrow pavements (Ilkeston Road & Sowbrook Lane), an absence of crossing points on busy highways, unlit sections of highway (also along Ilkeston Road) whilst the key access route northwards along Ilkeston Road sees a short section of highway without pavement on either side of the highway that prevents safe pedestrian movement in the direction of Ilkeston town centre. With mature hedgerows tightly lining the highway space around the application site, options to widen pavements and encourage pedestrian movement are extremely limited without the widespread removal of hedgerows – something that would be unacceptable owing to the adverse ecological and biodiversity impacts such actions would have.

Our response:

- The site adjoins the main Ilkeston Urban Area. The Stanton Regeneration Site, a major mixed-use allocation in the adopted Local Plan, is located immediately to the east, there are large employment sites to the south and the main body of Ilkeston to the north including the Nutbrook leisure corridor which runs through this part of the urban area.
- The indicative Masterplan shows how the proposed scheme could link directly into the Nutbrook corridor to the north. It also shows how it could link into the retained green areas at the north western end of the Stanton Regeneration Site as shown in their masterplan and the improved pedestrian access that they are proposing to the north across the canal and into the remainder of Ilkeston.
- It is perfectly normal to allow for a buffer between residential and employment areas. Indeed, the fact that this site could be developed right next to the Stanton Regeneration Site whilst retaining the landscaped setting should be seen as a positive of the scheme.
- Being on the edge of the main urban area, all services, facilities and employment opportunities are within normal cycle distances.
- Bus links are available directly adjacent to the site and improvements to this service would not only benefit this site, but the Stanton Regeneration Site. We would have expected the Council to try and facilitate these discussions to support sustainable development and provide a proactive service.
- Pedestrian links along Sowbrook Lane can be improved as per the submitted Transport Assessment.
- A wide range of employment opportunities are within a short distance of this site on Lows Lane and Littlewell Lane.

- Access to jobs and services are only going to improve in this location as the Stanton Regeneration Site comes forward. This will include not only the recently approved employment site, but also the proposal for in excess of 1000 new homes and complementary uses on the remainder of the former Stanton Works site.
- The existing footpath provision on Sowbrook Lane could be provide without the loss of hedgerow. The benefits of any improvement here would go well beyond the proposed scheme and improve pedestrian and / or cycle access to the existing and proposed employment sites to the east and south of the application site for the residents of the Ilkeston Urban Area. Any negative impacts from an ecological perspective that could not be mitigated would need to be balanced against these benefits. It is too simplistic to say they would be unacceptable in all contexts.

Bus links and the potential benefits

Policy 14 establishes the Council's approach to reducing the demand for car-based travel arising from new development. It sets out a framework in which the Council will make decisions on the sustainability of proposals to secure developments in accessible locations. Of particular relevance to this scheme is 14(2) which requires development sites to be readily accessible by walking, cycling and public transport. Where deficiencies exist, these are expected to be fully addressed. However, from the commentary above it is evident that there are fundamental shortcomings with the ability of the site to adequately integrate with the surrounding movement network that links it to nearby areas. The site is poorly served by public transport. The 14 service passes along Ilkeston Road (travelling between Ilkeston and Sandiacre) with a stop at Twelvehouses, although this is only an hourly service and does not operate on Sundays and Bank Holidays. The infrequent services contributes to the view that the site has a weak overall relationship with the wider sustainable movement and travel network.

Our response:

- The Stanton Regeneration Site is immediately to the east and a resolution to grant recently secured to allow for a significant employment site. This was deemed to be sufficiently accessible by other means of transport to the car and the workers travelling from the remainder of the urban area would need to travel past the application site to get there. The same is true for the existing employment sites already in this location.
- The applicant has set out that they are willing to work with the Council and the bus operator to secure improvements to this service. We would welcome a meeting in this regard. Clearly, any improvements here would benefit the existing and proposed employment uses to the east and south. Furthermore, with such a volume of development planned to come forward, this will give the improvements a realistic prospect of being sustained into the future. This would be a significant benefit of the

scheme as we note that no improvements were secured through the recent application for the employment site, despite its substantial scale.

Summary

The proposal should attract significant weight for delivering housing on a site at the top of the settlement hierarchy. The emerging plan should not weight against the proposal and the site is nowhere near the size required for an argument to be made about prematurity. The site is in a sustainable location and if officers had taken a proactive approach, measures to improve the pedestrian and bus links could have been secured.

Yours Sincerely



Sam Silcocks BSc (Hons) MA MRTPI
Director
sam.silcocks@harrislamb.com
DIRECT DIAL: 0121 213 6003