

Town & Country Planning Act 1990 (As amended)

Appeal by
Wulff Asset Management Limited

Against the refusal of Outline Application for up to 196 dwellings with all matters reserved other than the means of access.

At
Land North West Of 1 To 12 Twelve Houses, Sowbrook Lane, Stanton By Dale,
Derbyshire DE7 4QX.

**APPENDICES TO
PROOF OF EVIDENCE (1)**

OF

JAMES GRUNDY
MLPM, LRTPI

PINS Appeal Ref: APP/N1025/W/23/3319160
Council Ref: ERE/0722/0038

Contents

1. Site photographs
2. LPA - Highway Authority email exchange concluding on 29 June 2023 regarding consultation response & details of proposed works
3. LPA - Appellant email exchange concluding on 27 June 2023 regarding details of proposed works and engagement of third party landowners for purposes of Section 106 Agreement.

**APPENDICES TO PROOF OF EVIDENCE (1)
OF JAMES GRUNDY**

PINS Appeal Ref: APP/N1025/W/23/3319160

Council Ref: ERE/0722/0038

Appendix 1 – Site photographs



Photo 1 illustrates the isolated character of Sowbrook Lane (appeal site on right) and the busyness of traffic along it



Photo 2 illustrates the isolated character of Sowbrook Lane (appeal site on right) and the busyness of traffic along it



Photo 3 illustrates the end of the settlement at the south of Dallimore Road, Kirk Hallam, where turning 180 degrees give the following view



Photo 4 illustrates the view from the southern edge of Kirk Hallam looking south east towards Sowbrook Lane where you are clearly leaving the settlement behind and entering an area of an entirely different character



Photo 5 – a short distance along Sowbrook Lane looking back towards Kirk Hallam, with the settlement left behind



Photo 6 illustrates the isolated character of Sowbrook Lane



Photo 7 illustrates one of the sections of Sowbrook Lane where the road simultaneously bends and inclines, with limited forward visibility for overtaking



Photo 8 illustrates one of the sections of Sowbrook Lane where the road bends left, then right, with limited forward visibility for overtaking



Photo 9 illustrates one of the sections of Sowbrook Lane where the road significantly bends to the right, with limited forward visibility for overtaking



Photo 10 illustrates a section of Sowbrook Lane with the application site on the right, where forward visibility for overtaking is limited



Photo 11 illustrates the busyness of the junction of Sowbrook Lane, Ilkeston Road and Lows Lane with the appeal site to the left



Photo 12 illustrates the busyness and narrowness of Ilkeston Road and the character of traffic along it, with the appeal site to the left



Photo 13 illustrates the damaged verge along Ilkeston Road caused by vehicles mounting it due to the narrowness of the carriageway



Photo 14 illustrates the damaged kerb along Ilkeston Road caused by vehicles mounting it due to the narrowness of the carriageway



Photo 15, taken from the western side of Ilkeston Road, looking north, with the application site on the left. The photo illustrates the precariousness of cycling along Ilkeston Road



Photo 16, taken from the north west corner of the appeal site looking north, illustrates the first section of carriageway which people would have to cycle along upon leaving the site to head north



Photo 17 from a similar vantage point to photo 15, shows a similar scene, with both photos illustrating the character of vehicles using the route, the busyness of it, and the narrowness of the carriageway



Photo 18, from a vantage point a few metres to the north of photo 17, a short distance in front of the lorry is a person on a bike. The photo illustrates the precariousness of cycling along Ilkeston Road



Photo 19, taken from the bridge over the Nutbrook Canal on Ilkeston Road, shows a person accessing the canal path, having to carry their bicycle due to the narrowness of the access and the drop in land level beyond



Photo 20 is taken on the Nutbrook Canal path, with the access northwards along the Highway Authority's proposed route through third party private land to the left



Photo 21 illustrates the southern end of the current, informal path northwards, parallel to Ilkeston Road

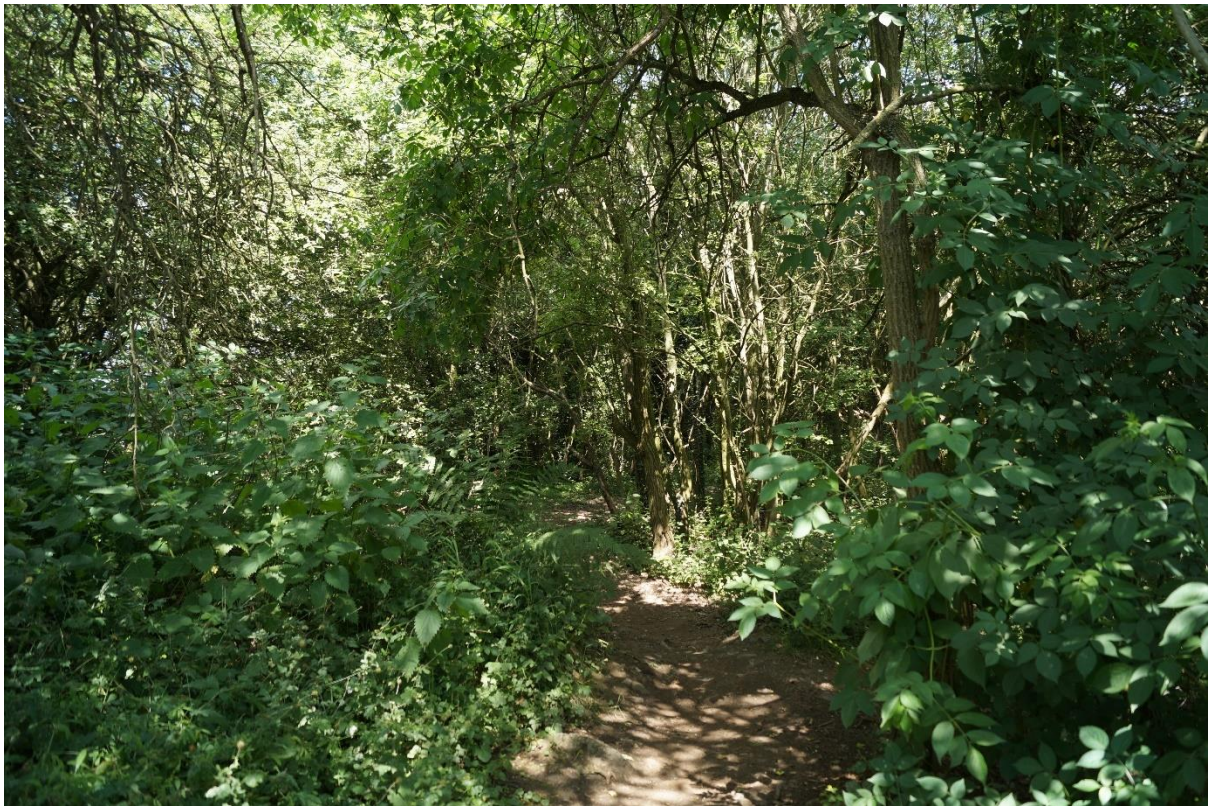


Photo 22 continues along that path and illustrates that it is secluded, unlit and heavily vegetated



Photo 23 continues along that path and further illustrates that it is secluded, unlit and heavily vegetated



Photo 24 continues along that path and further illustrates that it is secluded, unlit and heavily vegetated



Photo 25 is taken from the junction of that path and the Nutbrook Trail, looking back southwards towards the thick vegetation



Photo 26 looks north from that point along a further section of unlit path with heavy vegetation surrounding, adding to the feelings of isolation and seclusion



Photo 27 is a view along the Nutbrook Trail illustrating the lack of artificial lighting and isolated and secluded character



Photo 28 is taken on the eastern side of Ilkeston Road at the access/egress point of the Nutbrook Canal where the appellant and the Highway Authority are proposing a crossing. The photograph illustrates the severe lack of visibility to the north. Just coming into view is an oncoming vehicle



Photo 29 is taken from the same location a moment later. Photos 26 & 27 combined illustrate how close vehicles are before a waiting pedestrian at the proposed crossing would see them, or the driver of the vehicle would see them

APPENDICES TO PROOF OF EVIDENCE (1)
OF JAMES GRUNDY

PINS Appeal Ref: APP/N1025/W/23/3319160

Council Ref: ERE/0722/0038

**Appendix 2 – LPA - Highway Authority email
exchange concluding on 29 June 2023
regarding consultation response & details of
proposed works**

James Grundy

From: James Grundy
Sent: 29 June 2023 15:13
To: Nigel Atkinson (Place)
Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Good afternoon Nigel

Thank you. I am grateful for your quick and clear responses.

The re-surfacing adjacent to Ilkeston Road I refer to is the section roughly hatched below.



Is that part of the highway?

Regards

James Grundy

Senior Planning Officer

Resources Directorate, Erewash Borough Council

07834 394117 // James.Grundy@erewash.gov.uk // www.erewash.gov.uk

From: Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>

Sent: Thursday, June 29, 2023 3:00 PM

To: James Grundy <James.Grundy@erewash.gov.uk>

Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Dear James

Answers to the queries below as far as I can provide are as follows:

With regard to the proposed crossing on Ilkeston Road, has the County Council prepared, or been provided with a plan, or plans, of that? [No, this has been requested from the Appellant but not yet received. These are not essential for a S106 Agreement purposes, but would be useful to inform a S278 Agreement](#)

If so, please would you provide me with that/those? [Certainly, on receipt](#)

Please would you clarify the assessment which has been carried out with regard to that crossing, in relation to highway safety? [It is an existing uncontrolled crossing point between the eastern and western canal towpath routes on a 40mph road, therefore any improvement would be beneficial to highway safety and be considered a net improvement by the LHA.](#)

With regard to the re-surfacing of land immediately adjacent to the carriageway on Ilkeston Road, is the land in question part of the highway, or in the ownership of DCC? If not, do you know who does own it? I am unsure which land is being referred to. The western side south of the canal would require works on the developers land / within the public highway, on the eastern side would be within the highway boundary, then onwards from there on part of the PRow network as per the link referred to below.

The link between the Nutbrook Canal and Nutbrook Trail – have DCC engaged with the landowner? Is the landowner a willing participant? Have any plans been produced by, or provided to, DCC for this element? This appears to form part of the obligations associated with the New Stanton Park development (the land owner), the plans for this are on the Erewash Planning portal. The consented scheme indicates that an existing public footpath is being rerouted along the alignment in question to avoid the fenced part of the biodiversity area (which it currently crosses) so the link in question would form part of the PRow network, (a contribution would be sought towards this element not physical works.

Widening of the pavement on Sowbrook Lane – the appellant's submissions make reference to this using an existing verge. Is all of the land which is the subject of this widening part of the highway, or in the ownership of DCC? If not, are you aware of any engagement with the landowner(s)? The area of improvement is within the highway boundary / land controlled by the Appellant. There is no requirement for third party land. The works would be delivered by S278 Agreement

Kind regards
Nigel

Nigel Atkinson BSc (Hons) MSc DIC CMILT MCiHT | Highway Development Control Team Leader (Interim) |
Economy and Regeneration | Place | Derbyshire County Council |
County Hall, Matlock, Derbyshire DE4 3AG |

T: 07484 159235

E: Nigel.Atkinson@derbyshire.gov.uk



CONTROLLED

From: James Grundy <James.Grundy@erewash.gov.uk>

Sent: 29 June 2023 14:38

To: Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>

Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

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Good afternoon Nigel

In addition to the below, please would you clarify the following?

The link between the Nutbrook Canal and Nutbrook Trail – have DCC engaged with the landowner? Is the landowner a willing participant? Have any plans been produced by, or provided to, DCC for this element?

Widening of the pavement on Sowbrook Lane – the appellant's submissions make reference to this using an existing verge. Is all of the land which is the subject of this widening part of the highway, or in the ownership of DCC? If not, are you aware of any engagement with the landowner(s)?

Regards

James Grundy

Senior Planning Officer

Resources Directorate, Erewash Borough Council

07834 394117 // James.Grundy@erewash.gov.uk // www.erewash.gov.uk

CONTROLLED

From: James Grundy

Sent: Thursday, June 29, 2023 2:17 PM

To: Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>

Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Good afternoon Nigel

Thank you for your clarification with regard to siting of bus stops.

With regard to the proposed crossing on Ilkeston Road, has the County Council prepared, or been provided with a plan, or plans, of that? If so, please would you provide me with that/those? Please would you clarify the assessment which has been carried out with regard to that crossing, in relation to highway safety?

With regard to the re-surfacing of land immediately adjacent to the carriageway on Ilkeston Road, is the land in question part of the highway, or in the ownership of DCC? If not, do you know who does own it?

Regards

James Grundy

Senior Planning Officer

Resources Directorate, Erewash Borough Council

07834 394117 // James.Grundy@erewash.gov.uk // www.erewash.gov.uk

From: Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>

Sent: Tuesday, June 27, 2023 12:43 PM

To: James Grundy <James.Grundy@erewash.gov.uk>; Sam Silcocks <sam.silcocks@harrislamb.com>

Cc: Josie Hobbs <josie.hobbs@harrislamb.com>; Martin Andrews <martin.andrews@mac-ltd.co.uk>

Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Dear All

My email of 12 June (attached for reference) states:

- (i) *Provision of bus stops and bus shelters along the site frontage, specification and location to be agreed with Derbyshire County Council as Passenger Transport Authority*

I have been on leave in the interim and just returned this morning. I was anticipating the above wording was sufficient for S106 purposes.

The reason my wording states “*specification and location to be agreed*” is because the location of any bus stops would usually be informed by the internal layout at the detailed design stage. (It would be anticipated that bus stops would be conveniently placed at pedestrian access points from the site).

In this instance, the most obvious location would be in proximity to the north west corner of the site where the active travel link emerges. If it assists in progressing matters, perhaps the Appellant could submit a plan indicating this and I will confer with the PTE.

Kind regards
Nigel

CONTROLLED

From: James Grundy <James.Grundy@erewash.gov.uk>
Sent: 27 June 2023 12:17
To: Sam Silcocks <sam.silcocks@harrislamb.com>; Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>
Cc: Josie Hobbs <josie.hobbs@harrislamb.com>; Martin Andrews <martin.andrews@mac-ltd.co.uk>
Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

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Sam

The council's position is as per our request for detailed plans on 7th June below. We consider that you should detail what is proposed and where. The image provided in Nigel Atkinson's email of Monday, June 5, 2023 12:12 AM does not do that and does not represent a credible submission for inclusion in a Section 106 Agreement.

Regards
James Grundy
Senior Planning Officer
Resources Directorate, Erewash Borough Council
07834 394117 // James.Grundy@erewash.gov.uk // www.erewash.gov.uk

CONTROLLED

From: Sam Silcocks <sam.silcocks@harrislamb.com>
Sent: Tuesday, June 27, 2023 11:57 AM
To: James Grundy <James.Grundy@erewash.gov.uk>; Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>
Cc: Josie Hobbs <josie.hobbs@harrislamb.com>; Martin Andrews <martin.andrews@mac-ltd.co.uk>
Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Do you agree this is acceptable? If so we can proceed on this basis. If not, can you explain why and we can see if we can find a way forward that is going to secure both parties support.

Best

Sam Silcocks BSc (Hons) MA MRTPI
Director - Planning

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From: James Grundy <James.Grundy@erewash.gov.uk>

Sent: Tuesday, June 27, 2023 11:54 AM

To: Sam Silcocks <sam.silcocks@harrislamb.com>; Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>

Cc: Josie Hobbs <josie.hobbs@harrislamb.com>; Martin Andrews <martin.andrews@mac-ltd.co.uk>

Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Sam

The position is noted.

Regards

James Grundy

Senior Planning Officer

Resources Directorate, Erewash Borough Council

07834 394117 // James.Grundy@erewash.gov.uk // www.erewash.gov.uk

From: Sam Silcocks <sam.silcocks@harrislamb.com>

Sent: Tuesday, June 27, 2023 11:52 AM

To: James Grundy <James.Grundy@erewash.gov.uk>; Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>

Cc: Josie Hobbs <josie.hobbs@harrislamb.com>; Martin Andrews <martin.andrews@mac-ltd.co.uk>

Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Hi James

I don't think we need detailed plans. A contribution should be sufficient with reference to a plan showing the broad link. The details design would be down to the highway authority when they implement the scheme and subject to their detailed assessment.

We can show the design of the section within the public highway, but even then, this will be subject to detailed approval through a separate process as normal.

Trust this is acceptable.

Sam

Sam Silcocks BSc (Hons) MA MRTPI

Director - Planning

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From: James Grundy <James.Grundy@erewash.gov.uk>

Sent: Tuesday, June 27, 2023 11:45 AM

To: Sam Silcocks <sam.silcocks@harrislamb.com>; Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>

Cc: Josie Hobbs <josie.hobbs@harrislamb.com>; Martin Andrews <martin.andrews@mac-ltd.co.uk>

Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Good morning all

Further to my email below, please would you clarify if the detailed plans requested will be provided? If they will be, please would you clarify when that will be?

Regards

James Grundy

Senior Planning Officer

Resources Directorate, Erewash Borough Council

07834 394117 // James.Grundy@erewash.gov.uk // www.erewash.gov.uk

From: James Grundy

Sent: Wednesday, June 7, 2023 5:23 PM

To: Sam Silcocks <sam.silcocks@harrislamb.com>; Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>

Cc: Josie Hobbs <josie.hobbs@harrislamb.com>; Martin Andrews <martin.andrews@mac-ltd.co.uk>

Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Good afternoon all

Nigel – Thank you for the further clarification. I note that you have not included provision of bus stops on Ilkeston Road (as proposed by the appellant) in your requirements. Please would you clarify the position on that?

In light of the Highway Authority's responses, we consider that, subject to the matters being adequately covered by condition(s) and a section 106 agreement, reason for refusal 2 is overcome.

For the avoidance of doubt, with reference to Nigel's numbering, items 1, 3, 4 & 5 should be included in the 106. Item 2 should be included as a condition.

In order to achieve that, the landowner should be a signatory to the s106; detailed plans of all elements should be provided for inclusion in the s106; details of the level of financial contribution for 5 should be provided. They can be provided in the forthcoming weeks, as the s106 preparation is undertaken. **Sam/Josie** – I will refer further to this in our separate SoCG correspondence.

Sam – with regard to your specific question about whether the path upgrade would meet the tests, given that the Highway Authority consider it necessary to overcome the reason for refusal, we consider the tests to be met.

Regards

James Grundy

Senior Planning Officer

Resources Directorate, Erewash Borough Council

07834 394117 // James.Grundy@erewash.gov.uk // www.erewash.gov.uk

From: James Grundy

Sent: Wednesday, June 7, 2023 4:58 PM

To: Sam Silcocks <sam.silcocks@harrislamb.com>; Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>

Cc: Josie Hobbs <josie.hobbs@harrislamb.com>; Martin Andrews <martin.andrews@mac-ltd.co.uk>

Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Dear all

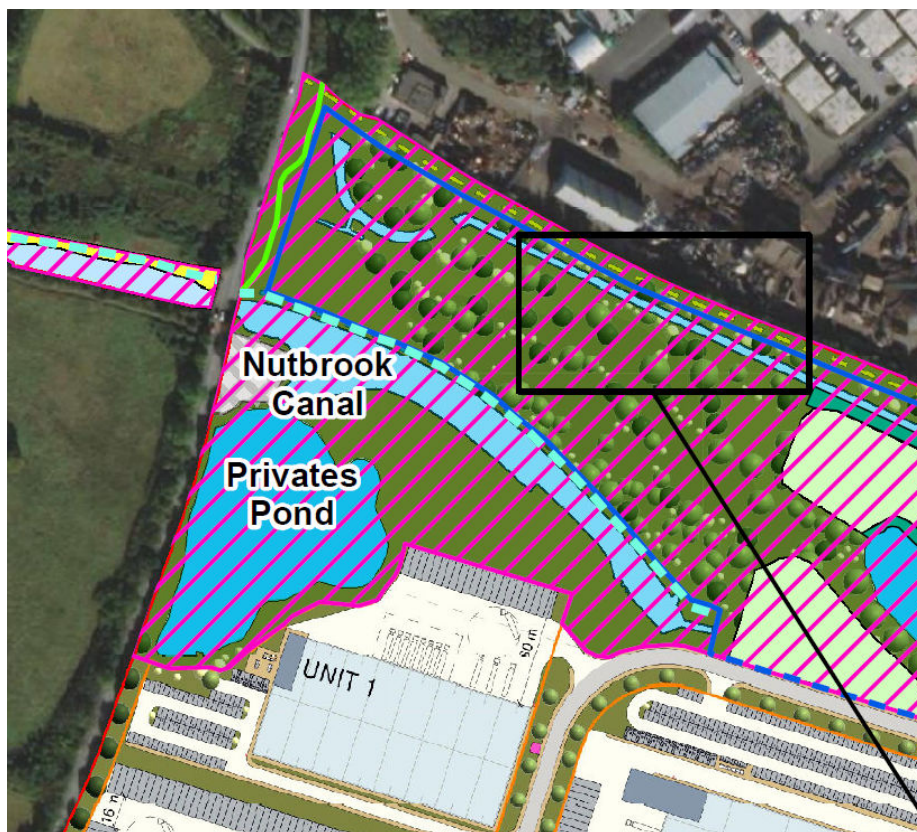
We apologise. We have made errors with regard to the Stanton North site.

Having re-visited the approved scheme we confirm the following:

The Biodiversity Plan – which forms part of the requirements of condition 18 includes this:

4.7 To maintain connectivity for people using the existing cycle route, Stanton by Dale Footpaths 20 and 24 and the road network, a formal footpath will be established in the west of the BEA, running north-south between the Nutbrook canal and the cycle route. The cycle route itself will be maintained in good condition and facilities such as benches provided. In the east of the BEA, an existing footpath will be formalised, connecting the cycle route and the development with Merlin Way and Crompton Road to the north.

The relevant plan is this:



And the condition states:

- 18 Notwithstanding that landscaping is a Reserved Matter, the Biodiversity Enhancement Areas depicted in figure 1 of the “New Stanton Park – Biodiversity Enhancement Areas – Outline Habitat Management Plan (April 2022)” shall be retained in accordance with that plan, and within 12 months of the completion of ground remediation works on the site, shall be enhanced in accordance with, and thereafter managed in accordance with, that Management Plan.

We are sorry for the confusion, wasted time and delay caused by our errors in this regard.

Having clarified that, we will write separately, shortly, in response to the proposal.

Regards

James Grundy

Senior Planning Officer

Resources Directorate, Erewash Borough Council

07834 394117 // James.Grundy@erewash.gov.uk // www.erewash.gov.uk

From: Sam Silcocks <sam.silcocks@harrislamb.com>

Sent: Tuesday, June 6, 2023 11:39 PM

To: Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>; James Grundy <James.Grundy@erewash.gov.uk>

Cc: Josie Hobbs <josie.hobbs@harrislamb.com>; Martin Andrews <martin.andrews@mac-ltd.co.uk>

Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Hi James

I think Nigel has very clearly and succinctly set out that the outline submissions next door identified the provision of this footpath and that whilst they do propose fencing to protect the habitat, this fencing does not include the footpath connection in question.

So it would appear this is something that the adjoining employment site is proposing to deliver as part of their proposal and that this can be secured through the relevant RM application.

We would welcome confirmation that this addresses your question about deliverability of the connection and that the financial contribution would meet the relevant statutory tests?

Kind Regards

Sam Silcocks BSc (Hons) MA MRTPI
Director - Planning

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From: Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>

Sent: Tuesday, June 6, 2023 9:59 PM

To: James Grundy <James.Grundy@erewash.gov.uk>; Sam Silcocks <sam.silcocks@harrislamb.com>

Cc: Josie Hobbs <josie.hobbs@harrislamb.com>; Martin Andrews <martin.andrews@mac-ltd.co.uk>

Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Dear James,

The position of the Local Highway Authority remains as set out in my email of 5 June 2023.

Derbyshire County Council does not require the Appellant to physically deliver off-site works on the land identified. A financial contribution is sought towards future delivery of part of the LCN route in that location by this Authority, together with physical works as summarised below:

1. *Section 278 Works to provide footway widening to Sowbrook Lane enabling provision of a 2.0m wide footway, with some narrowing.*

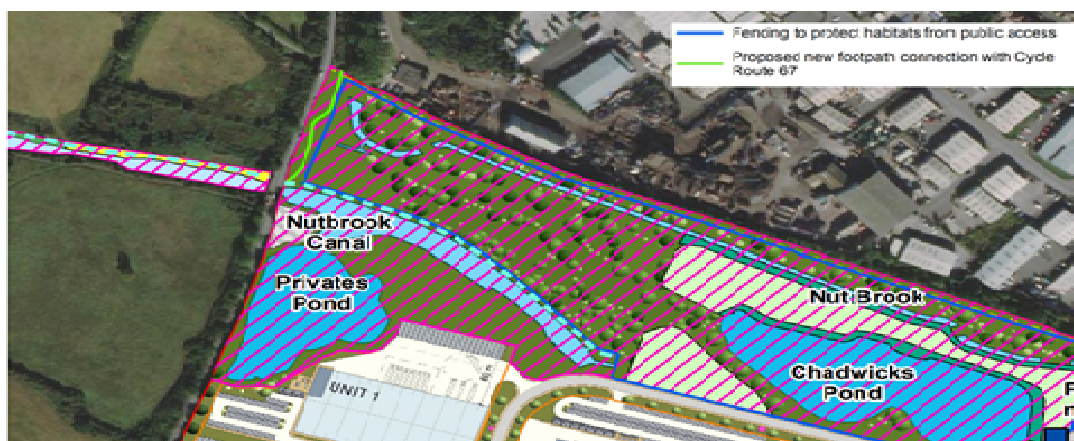
2. *Planning Obligation Agreement for provision of a pedestrian / cycle link between Sowbrook Lane and Ilkeston Road around the northern periphery of the site (southern side of the canal) and western periphery of the site south in line with Derbyshire County Council's transport Plan, to be dedicated as a public right of way.*
3. *Section 278 Works to provide a footway / cycleway along Ilkeston Road from where the route Sowbrook Lane / Ilkeston Road active travel route exits the site northwards to the canal towpath gate.*
4. *Section 278 Works to provide a crossing point on Ilkeston Road between the eastern and western sections of the canal towpath.*
5. *Planning Obligation Agreement to provide funding towards a surfaced route to an appropriate standard between the Nutbrook Canal and the Nutbrook Trail.*

With regards to the consented hybrid application reference ERE/1221/0002, the land in question does not appear to be identified as contaminated in the site investigation report which seems to place it in the undeveloped Zone 1 Area: "fields and ponds".

In consideration of the Biodiversity Enhancement Area, the "New Stanton Park Biodiversity Enhancement Area Outline Habitat Management Plan" (Final Version) dated March 2022 appears to identify the land in question for a 'proposed new footpath connection with Cycle Route 67'. Page 11, Para 4.1 of the above report states: "To maintain connectivity for people using the existing cycle route, Stanton by Dale Footpaths 20 and 24 and the road network, a formal footpath will be established in the west of the BEA, running north-south between the Nutbrook canal and the cycle route".

An extract from Figure 1, (page 23) of the Biodiversity Enhancement Area report is reproduced below. This shows the route of a proposed formalised footpath highlighted in green, outside of the proposed fenced zone, all of which are within the overall Biodiversity Enhancement Area. The proposed fence to protect habitats from public access is marked in blue, to the east of the active travel link.

The Local Highway Authority requests that this route, which appears to be already established and used by pedestrians, is safeguarded as an active travel route for future enhancement as part of the County Council's Local Cycle Network, as set out in the Outline Habitat Management Plan.



As per my previous email, I will circulate recommended conditions and other S106 / S278 inclusions as soon as possible.

Kind regards
Nigel

Nigel Atkinson BSc (Hons) MSc DIC CMILT MCIT | Highway Development Control Team Leader (Interim) |

T: 01629 533 190

E: Nigel.Atkinson@derbyshire.gov.uk



From: James Grundy <James.Grundy@erewash.gov.uk>

Sent: 06 June 2023 12:35

To: Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>; Sam Silcocks <sam.silcocks@harrislamb.com>

Cc: Josie Hobbs <josie.hobbs@harrislamb.com>; Martin Andrews <martin.andrews@mac-ltd.co.uk>

Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

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Dear Nigel

Thank you for the additional information which is all noted. My question of how the proposal would be delivered remains unanswered. Therefore, as advised in my email to Sam below, it appears that the appellant cannot rely on this land to deliver off site works for the Sowbrook Lane proposals.

We would be grateful for clarification of the Highway Authority's position in light of that.

Regards

James Grundy

Senior Planning Officer

Resources Directorate, Erewash Borough Council

07834 394117 // James.Grundy@erewash.gov.uk // www.erewash.gov.uk

From: Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>

Sent: Tuesday, June 6, 2023 7:02 AM

To: Sam Silcocks <sam.silcocks@harrislamb.com>; James Grundy <James.Grundy@erewash.gov.uk>

Cc: Josie Hobbs <josie.hobbs@harrislamb.com>; Martin Andrews <martin.andrews@mac-ltd.co.uk>

Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Dear All

For clarity, there appears to be an existing route indicated in purple on the plan below. It runs north to south through the area of land in question, on the eastern side of Ilkeston Road. I attach photographs.

Currently it is rough surfaced, as is the surrounding network of paths in the vicinity, (including the canal towpath). It is not currently fenced, nor is there any signage or physical measures prohibiting public access. This route has been identified to be improved as part of the County Council's Local Cycle Network (LCN).

As the route forms part of a desire line from the site, the Local Highway Authority is seeking a Section 106 contribution towards improving its use for active travel, to be delivered by Derbyshire County Council Public Rights of Way team as part of the County Council's wider LCN proposals.

I will circulate recommended conditions and other S106 inclusions as soon as possible.

Kind regards

Nigel Atkinson BSc (Hons) MSc DIC CMILT MCIT | Highway Development Control Team Leader (Interim) |
Economy and Regeneration | Place | Derbyshire County Council |
County Hall, Matlock, Derbyshire DE4 3AG |

T: 01629 533 190

E: Nigel.Atkinson@derbyshire.gov.uk



From: Sam Silcocks <sam.silcocks@harrislamb.com>

Sent: 05 June 2023 21:32

To: James Grundy <James.Grundy@erewash.gov.uk>; Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>

Cc: Josie Hobbs <josie.hobbs@harrislamb.com>

Subject: Re: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

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All noted.

Seems strange you wouldn't have explored this in more detail as this was part of the County's proposal with much wider strategic implications for securing sustainable travel around the Borough! Plenty of space to clear a strip, clean it up and provide additional planting elsewhere!

What alternatives did you require of them to provide suitable cycle / pedestrian links?

Best

Sam

Sent from [Outlook for Android](#)

Sam Silcocks BSc (Hons) MA MRTPI

Director - Planning

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From: James Grundy <James.Grundy@erewash.gov.uk>

Sent: Monday, June 5, 2023 5:12:51 PM

To: Sam Silcocks <sam.silcocks@harrislamb.com>; Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>

Cc: Josie Hobbs <josie.hobbs@harrislamb.com>

Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Sam

The area of land in question forms part of the biodiversity offer for the Stanton development. Public access is deliberately excluded from this part of the site because it is heavily contaminated and to render it safe would involve destroying all the biodiversity value it has. So that part of the site was retained through masterplanning and the approved parameter plans for biodiversity enhancement and the public are excluded from that area to keep them safe. The council will not be working with the Stanton developers through Reserved Matters applications to open this area up to the public for those reasons. The contaminated land reports, biodiversity assessments and approved parameter plans are all available on our website for that application.

At present therefore, it appears that you cannot rely on this land to deliver off site works for the Sowbrook Lane proposals.

Regards

James Grundy

Senior Planning Officer

Resources Directorate, Erewash Borough Council

07834 394117 // James.Grundy@erewash.gov.uk // www.erewash.gov.uk

From: Sam Silcocks <sam.silcocks@harrislamb.com>

Sent: Monday, June 5, 2023 4:47 PM

To: James Grundy <James.Grundy@erewash.gov.uk>; Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>

Cc: Josie Hobbs <josie.hobbs@harrislamb.com>

Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Hi James

There is still plenty of opportunity for this to be secured through the RM applications and we would normally expect to see Council's take the chance to deliver these things through negotiations on planning applications when proposals come forward.

Can I ask why the opportunity has not been taken to date to secure this part of the proposed LCN through the outline application? If we can understand this, then we can assist with finding a solution for the benefit of everyone. There are measures that can deal with contamination and there are public rights of way currently running along either side of this piece of land. So it cannot be that bad.

Best

Sam Silcocks BSc (Hons) MA MRTPI

Director - Planning

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From: James Grundy <James.Grundy@erewash.gov.uk>

Sent: Monday, June 5, 2023 4:35 PM

To: Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>

Cc: Sam Silcocks <sam.silcocks@harrislamb.com>; Josie Hobbs <josie.hobbs@harrislamb.com>

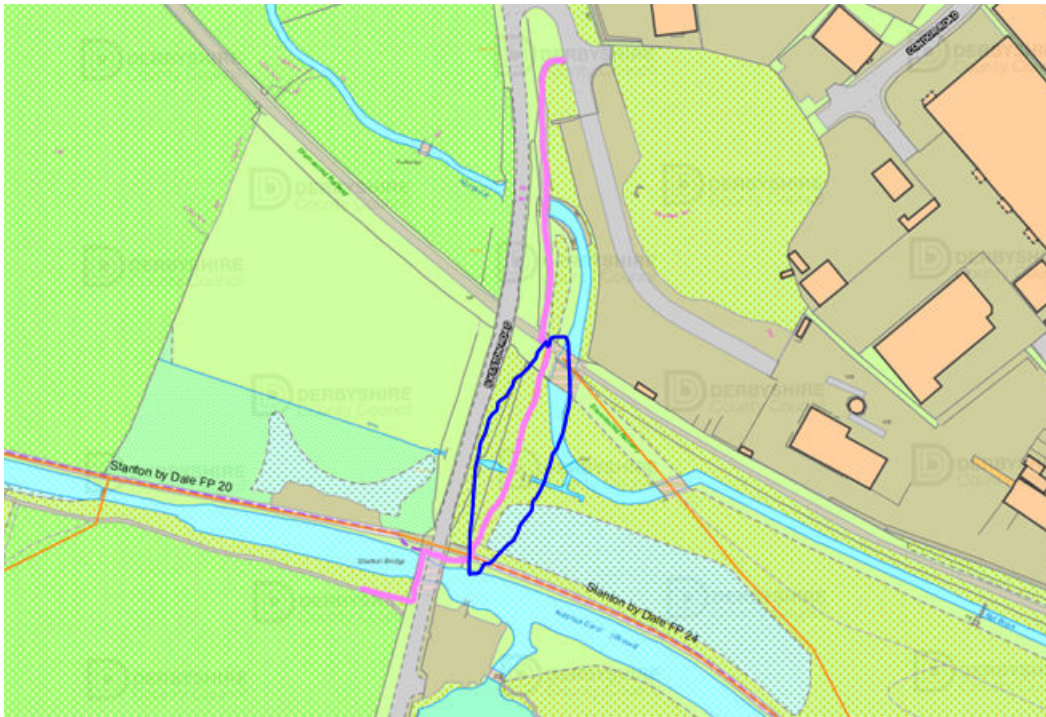
Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Good afternoon all

Nigel – Thank you for your comments. Please would you advise when we will receive your proposed conditions and s106 inclusions?

Josie/Sam – please see below.

We note the proposal to provide a path parallel to Ilkeston Road, as roughly marked in dark blue below.



We note that this land forms part of the site the subject of approved hybrid application reference ERE/1221/0002. We understand that the land is not in the ownership of the Sowbrook Lane site appellant or the Highway Authority. We note that the land is contaminated and that as part of the approved scheme it will be fenced in, with no public access, and will provide biodiversity enhancements.

All - In light of those factors, please would you advise how your proposal would be delivered?

Regards

James Grundy

Senior Planning Officer

Resources Directorate, Erewash Borough Council

07834 394117 // James.Grundy@erewash.gov.uk // www.erewash.gov.uk

From: Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>

Sent: Monday, June 5, 2023 12:12 AM

To: James Grundy <James.Grundy@erewash.gov.uk>

Cc: Planning <planning@erewash.gov.uk>

Subject: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

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Dear James,

RE: Appeal Reference: APP/N1025/W/23/3319160

Planning Application Reference: ERE/0722/0038

Site Location: Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Thank you for advising Derbyshire County Council, as Local Highway Authority, of the planning appeal in connection with the above proposals. Whilst I was not involved with assessing the original submissions, I have reviewed all material submitted in connection with the original planning application submissions, reviewed the additional material supplied by the Appellant, undertaken internal discussion with the Derbyshire County Council Rights of Way Team, Active Travel Team and Passenger Transport Authority. I have also visited the site and general location and walked the current route between the site and the edge of Ilkeston and examined the current footway provision

along Sowbrook Lane. On the basis of my assessments, the current position of the Local Highway Authority in connection with the Appeal proposals is as set out below.

Firstly, with regard to the submissions that supported the original planning application, the Local Highway Authority Statutory Consultee response to the planning application was issued by Sue Highley, as set out in the attached email of 23 September 2022. At the time of the Local Highway Authority's response, a Transportation Assessment had been submitted which suggested that the site will generate between up to 150 or so two-way trips during the respective weekday peak hours. The Transportation Assessment included some analysis of the relative accessibility of the site, including access to employment, education, healthcare, food retail and town centres.

It was noted that the active travel strategy for the site concentrated on amenities in Kirk Hallam, although it is likely that residents would be attracted to the more comprehensive facilities in Ilkeston. There are currently no footways on Ilkeston Road for a considerable distance north of the site resulting in the need for pedestrians to walk in the carriageway of Ilkeston Road. No footway provision was proposed as part of the original submissions, nor alternative mitigation suggested at the time of the original submissions.

The transport assessment considered several offsite junctions. These were assessed based on classified turning counts undertaken Thursday 21 October 2021, prior to New Stanton Park (ERE/1221/0002) receiving planning consent. In response to this, the Local Highway Authority requested that a cumulative assessment was undertaken with New Stanton Park included as committed development, together with some modifications to the vehicular access arrangements and provision of improved means of pedestrian access. As an alternative to undertaking further work, based on what had been submitted to support the original application, the Highway Authority recommended refusal on the following two grounds:

- 1. The applicant has not satisfactorily demonstrated that approval of the proposed development would not have a significant impact on the operational capacity or condition of safety on the existing transportation network. For the avoidance of doubt, any further consideration of this development by the Highway Authority would require a cumulative impact assessment to be undertaken on behalf of the developer to understand the impacts of this development along with the approved New Stanton Park development, amended and additional drawings.*
- 2. Approval of the proposal would result in the introduction of a significant number of pedestrian movements at a location where no footways provision exists requiring pedestrians and other vulnerable users to use the carriageway, increasing the potential for conflict with vehicles contrary to the best interests of highway safety.*

The Application was subsequently REFUSED (refusal notice dated 13 October 2022) and, the following reasons for refusal included on the basis of the Local Highway Authority's recommendations in relation to the originally submitted scheme:

" 2. The proposal would result in the introduction of a significant number of pedestrian movements at a location where no footways provision exists requiring pedestrians and other vulnerable users to use the carriageway, resulting in conflict with vehicles contrary to the best interests of highway safety. As such, the proposal is contrary to the requirements of the NPPF.

3. The applicant has not satisfactorily demonstrated that approval of the proposed development would not have a significant impact on the operational capacity or condition of safety on the existing transportation network. As such, the proposal is contrary to the requirements of the NPPF".

In addition to the Reasons for Refusal recommended by the Local Highway Authority, an additional transport and accessibility reason for refusal, (Reason for Refusal Number One) was also been included on the Decision Notice. This states.

“ 1. The site is unsustainably located, remote from services, with poor options for walking and cycling to services further afield. As such, the proposal is contrary to the requirements of the NPPF, the National Design Guide, Core Strategy Policy 10: Design and Enhancing Local Identity and Core Strategy Policy 14: Managing Travel Demand”.

Whilst the latter Reason for Refusal is transport related, it was not recommended by the Local Highway Authority in its statutory consultee response. It is noted that the site is adjacent to the New Stanton Park employment site that a range of facilities are within reasonable walking distance (up to 2km). Furthermore, the Appellant has agreed to fund an extension to the existing bus service which operates during the middle of the day so that it operates Monday to Saturday 0700-1900 every hour, for a period of 5 years post development. The Passenger Transport Authority has been consulted on this and has confirmed that the proposals would be acceptable. This would offer a benefit to the wider area served by the route. Additionally a development wide Travel Plan would operate on the site.

For clarity on the above matter, the Local Highway Authority's position is that whilst local facilities could be considered to be within reasonable distance from the site (and would be improved further by extending the bus service), the quality of the route to local facilities by active travel modes is currently poor, as set out in Reason for Refusal Number Two.

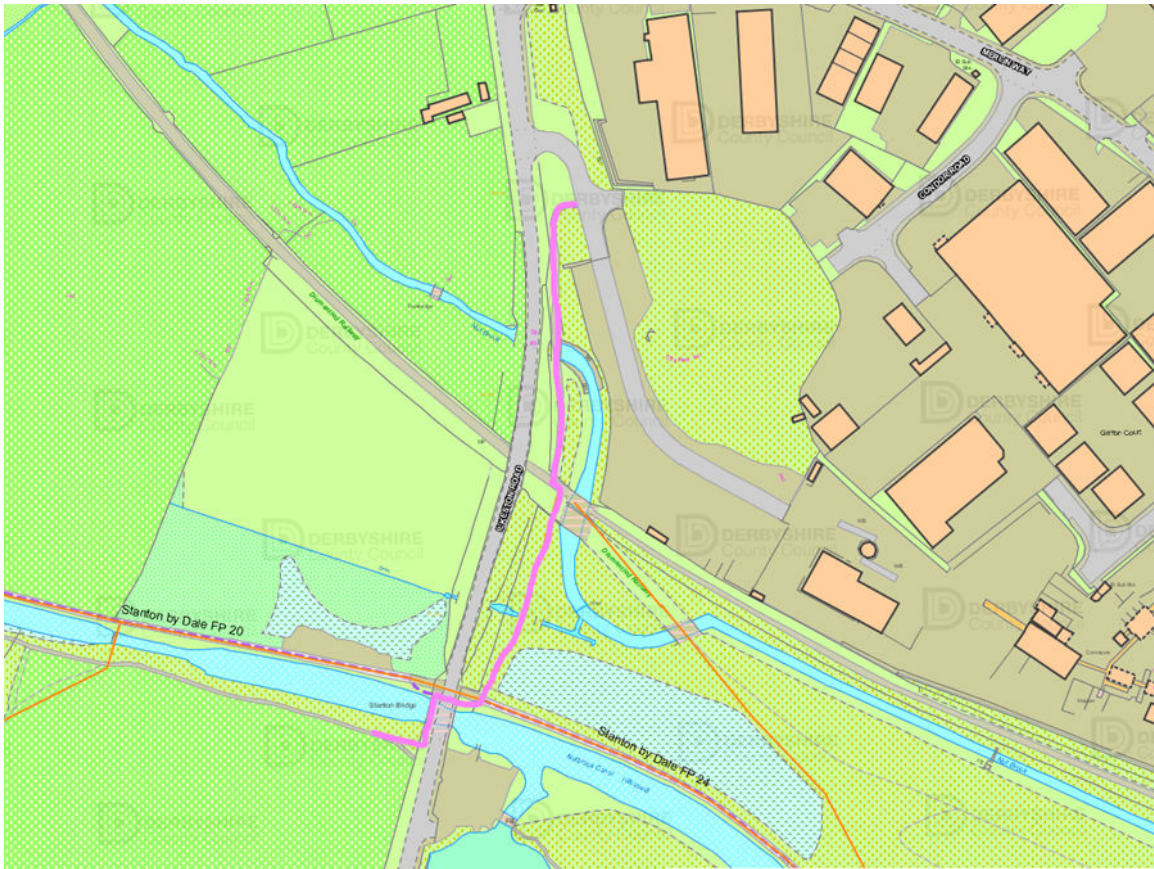
Pursuant to the above and in line with the Planning Inspectorates guidances which encourages all parties to engage in pre-inquiry discussions, an Addendum Transport Assessment was submitted on behalf of the Appellant on the 31 March 2023 (attached for ease of reference), which sought to address the Highway Authority's comments. The Local Highway Authority has reviewed matters set out in the Addendum Transport Assessments and offers the following additional comments on the Appeal proposals.

With regard to the first highways recommendation for refusal (reason for Refusal Number 3), it has been noted that the Appellant has now undertaken a cumulative assessment of the local junctions previously identified and as previously requested by the Local Highway Authority. This indicates that the impact of the development on the Local Highway Network is not considered to be considered significant when assessed cumulatively with New Stanton Park and mitigation measures already secured in relation to the latter development, together with highway improvements to be delivered as part of this development by way of Agreement under Section 278 of the Highways Act.

In consideration of the additional material submitted in connection with the above, the Local Highway Authority considers that its first recommendation for refusal has now been addressed by the Appellant. It may be covered by condition and appropriate legal agreement. The Highway Authority Recommendation for refusal (set out in Reason for Refusal number 3), is therefore withdrawn.

With regard to the second highways recommendation for refusal (Reason for Refusal Number 2), this relates to current the lack of a section of footway along Ilkeston Road (to the north) and below standard sections of existing footway along Sowbrook Lane. The Appellant has engaged in pre-Inquiry dialogue with the Local Highway Authority and Derbyshire County Council Rights of Way team concerning provision of active travel routes in the vicinity of the site in connection with this matter.

It has been noted as part of the Addendum Transport Assessment that there is an existing Key Cycle Network (KCN) Sustrans route (the Nutbrook Trail) running approximately northwest to south-east a short distance to the north of the site. Within its current Transport Plan, Derbyshire County Council has proposals for a Local Cycle Network (LCN) to link to this southwards to the Nutbrook Canal, with a crossing facility on Ilkeston Road and then a pedestrian / cycle link through the appeal site to Sowbrook Lane. The above is set out on Derbyshire County Council's website: <https://www.derbyshire.gov.uk/transport-roads/transport-plans/sustainable-travel/cycling-walking-plans/cycling-and-walking-plans.aspx>. The intended route of Local Cycle Network is indicated purple on the plan below. It should be noted that it *is routed through the Appeal site*:



Having visited and walked the route of the LCN on Thursday 1 June 2023, it was observed that:

- The Key Cycle Network (KCN) is in place and forms part of a longer distance Sustrans route to the wider area. It is surfaced to a high standard.
- The northern section of proposed LCN (to the north of the Nutbrook Trail linking to Ilkeston Road) is already in place and surfaced to a high standard. There is no requirement for any provision or improvement of this section of the route northwards from the Nutbrook Trail to Ilkeston Road.
- The section of LCN between the Nutbrook Trail and the Nutbrook Canal is in place and although unlit, appears to have significant use by pedestrians, but on an informal basis that would require further surfacing and formalisation to facilitate cycle use.
- There is currently no crossing point on Ilkeston Road from the canal footpath. The section through the site does not currently exist, although the Derbyshire County Council's plan shows its future provision.

Following subsequent discussion with view to setting out matters in Angreed Position Statement, the applicant has indicated that they would provide the following Active Travel improvements in the vicinity of the site to address the original concerns raised by the Local Highway Authority:

1. *Section 278 Works to provide footway widening to Sowbrook Lane enabling provision of a 2.0m wide footway with some narrowing. This addresses issues concerning pedestrian access eastwards from the site to Kirk Hallam and is considered acceptable by the Local Highway Authority.*
2. *Planning Obligation Agreement for provision of a pedestrian / cycle link between Sowbrook Lane and Ilkeston Road around the northern periphery of the site (southern side of the canal) and western periphery of the site south in line with Derbyshire County Council's transport Plan, to be dedicated as a public right of way. This is considered to be acceptable to the Local Highway Authority and in line with its current Travel Plan as published on the Derbyshire County Council website.*

3. *Section 278 Works to provide a footway / cycleway along Ilkeston Road from where the route Sowbrook Lane / Ilkeston Road active travel route exits the site northwards to the canal towpath gate. This is considered to be acceptable to the Local Highway Authority and in line with its current Travel Plan as published on the Derbyshire County Council website.*
4. *Section 278 Works to provide a crossing point on Ilkeston Road between the eastern and western sections of the canal towpath. This is considered to be acceptable to the Local Highway Authority and in line with its current Travel Plan as published on the Derbyshire County Council website.*
5. *Planning Obligation Agreement to provide funding towards a surfaced route to an appropriate standard between the Nutbrook Canal and the Nutbrook Trail, specification to be agreed with the Derbyshire County Council Rights of Way Team. This is considered to be acceptable to the Local Highway Authority and in line with its current Travel Plan as published on the Derbyshire County Council website.*

The provision of the above works would enable off-carriageway walking and cycling trips through the site between Sowbrook Lane and Ilkeston Road, improve pedestrian access to Kirk Hallam and provide for pedestrian trips northwards into Ilkeston off-carriageway, where there is currently no footway on the existing former railway bridge over the Nutbrook Trail. The proposed active travel measures are considered to be acceptable by the Local Highway Authority as they are in line with its own Transport Plan aspirations and would overcome its concerns in relation to pedestrian and cycle movements to the north along Ilkeston Road.

In relation to the above, the Local Highway Authority considers that the second recommendation for refusal, (Reason for Refusal Number 2), would be addressed by the measures set out above being delivered. The Appellant has indicated that they would agree to do so. Having reviewed all the above, the Local Highway Authority considers that any outstanding matters may be covered by planning conditions and appropriate legal agreement which the Appellant has expressed a willingness to enter into. On the above basis, the Local Highway Authority's previously recommended objection to the proposals is withdrawn.

It is noted that a list of suggested Section 106 Obligations has already been circulated by Erewash Borough Council. This needs to be revised to include the active travel measures set out above. We will provide, by separate cover, a list of recommended conditions and planning obligation agreement measures that we request are included on any permission granted.

I trust this clarifies the Local Highway Authority's position with regard to this Appeal. Please do not hesitate to contact me should you wish to discuss further.

Kind regards

Nigel Atkinson BSc (Hons) MSc DIC CMILT MCIT | Highway Development Control Team Leader (Interim) |
Economy and Regeneration | Place | Derbyshire County Council |
County Hall, Matlock, Derbyshire DE4 3AG |

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**APPENDICES TO PROOF OF EVIDENCE (1)
OF JAMES GRUNDY**

PINS Appeal Ref: APP/N1025/W/23/3319160

Council Ref: ERE/0722/0038

Appendix 3 – LPA - Appellant email exchange concluding on 27 June 2023 regarding details of proposed works and engagement of third party landowners for purposes of Section 106 Agreement.

James Grundy

From: Sam Silcocks <sam.silcocks@harrislamb.com>
Sent: 27 June 2023 12:26
To: James Grundy; Nigel Atkinson (Place)
Cc: Josie Hobbs; Martin Andrews
Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: to be filed

That does not explain why though. Perfectly reasonable question. And it would not be normal to show this level of detail being requested. Perfectly normal for measures to be secured in the s.106 agreement to require the detail to be submitted and approved by the LPA.

That said, the section within the appeal site will be secured through the RM application. So already controlled.

The section in the NSP site is being delivered as part of that scheme. They have provided detail to the Council and the conditions require its delivery. So already secured and controlled.

This leaves the bit on the highway, which I have said we can provide detail for.

This seems more than a reasonable approach.

If you disagree, please can you expand on the explanation on this. Simply saying “because we will say so” does not help anyone.

Best

Sam Silcocks BSc (Hons) MA MRTPI
Director - Planning
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From: James Grundy <James.Grundy@erewash.gov.uk>
Sent: Tuesday, June 27, 2023 12:17 PM
To: Sam Silcocks <sam.silcocks@harrislamb.com>; Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>
Cc: Josie Hobbs <josie.hobbs@harrislamb.com>; Martin Andrews <martin.andrews@mac-ltd.co.uk>
Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Sam

The council's position is as per our request for detailed plans on 7th June below. We consider that you should detail what is proposed and where. The image provided in Nigel Atkinson's email of Monday, June 5, 2023 12:12 AM does not do that and does not represent a credible submission for inclusion in a Section 106 Agreement.

Regards

James Grundy

Senior Planning Officer

Resources Directorate, Erewash Borough Council

07834 394117 // James.Grundy@erewash.gov.uk // www.erewash.gov.uk

From: Sam Silcocks <sam.silcocks@harrislamb.com>
Sent: Tuesday, June 27, 2023 11:57 AM
To: James Grundy <James.Grundy@erewash.gov.uk>; Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>
Cc: Josie Hobbs <josie.hobbs@harrislamb.com>; Martin Andrews <martin.andrews@mac-ltd.co.uk>
Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Do you agree this is acceptable? If so we can proceed on this basis. If not, can you explain why and we can see if we can find a way forward that is going to secure both parties support.

Best

Sam Silcocks BSc (Hons) MA MRTPI
Director - Planning

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Sent: Tuesday, June 27, 2023 11:54 AM
To: Sam Silcocks <sam.silcocks@harrislamb.com>; Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>
Cc: Josie Hobbs <josie.hobbs@harrislamb.com>; Martin Andrews <martin.andrews@mac-ltd.co.uk>
Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Sam

The position is noted.

Regards

James Grundy

Senior Planning Officer

Resources Directorate, Erewash Borough Council

07834 394117 // James.Grundy@erewash.gov.uk // www.erewash.gov.uk

From: Sam Silcocks <sam.silcocks@harrislamb.com>
Sent: Tuesday, June 27, 2023 11:52 AM
To: James Grundy <James.Grundy@erewash.gov.uk>; Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>
Cc: Josie Hobbs <josie.hobbs@harrislamb.com>; Martin Andrews <martin.andrews@mac-ltd.co.uk>
Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Hi James

I don't think we need detailed plans. A contribution should be sufficient with reference to a plan showing the broad link. The details design would be down to the highway authority when they implement the scheme and subject to their detailed assessment.

We can show the design of the section within the public highway, but even then, this will be subject to detailed approval through a separate process as normal.

Trust this is acceptable.

Sam

Sam Silcocks BSc (Hons) MA MRTPI
Director - Planning

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From: James Grundy <James.Grundy@erewash.gov.uk>

Sent: Tuesday, June 27, 2023 11:45 AM

To: Sam Silcocks <sam.silcocks@harrislamb.com>; Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>

Cc: Josie Hobbs <josie.hobbs@harrislamb.com>; Martin Andrews <martin.andrews@mac-ltd.co.uk>

Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Good morning all

Further to my email below, please would you clarify if the detailed plans requested will be provided? If they will be, please would you clarify when that will be?

Regards

James Grundy

Senior Planning Officer

Resources Directorate, Erewash Borough Council

07834 394117 // James.Grundy@erewash.gov.uk // www.erewash.gov.uk

From: James Grundy

Sent: Wednesday, June 7, 2023 5:23 PM

To: Sam Silcocks <sam.silcocks@harrislamb.com>; Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>

Cc: Josie Hobbs <josie.hobbs@harrislamb.com>; Martin Andrews <martin.andrews@mac-ltd.co.uk>

Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Good afternoon all

Nigel – Thank you for the further clarification. I note that you have not included provision of bus stops on Ilkeston Road (as proposed by the appellant) in your requirements. Please would you clarify the position on that?

In light of the Highway Authority's responses, we consider that, subject to the matters being adequately covered by condition(s) and a section 106 agreement, reason for refusal 2 is overcome.

For the avoidance of doubt, with reference to Nigel's numbering, items 1, 3, 4 & 5 should be included in the 106. Item 2 should be included as a condition.

In order to achieve that, the landowner should be a signatory to the s106; detailed plans of all elements should be provided for inclusion in the s106; details of the level of financial contribution for 5 should be provided. They can be provided in the forthcoming weeks, as the s106 preparation is undertaken. **Sam/Josie** – I will refer further to this in our separate SoCG correspondence.

Sam – with regard to your specific question about whether the path upgrade would meet the tests, given that the Highway Authority consider it necessary to overcome the reason for refusal, we consider the tests to be met.

Regards

James Grundy

Senior Planning Officer

Resources Directorate, Erewash Borough Council

07834 394117 // James.Grundy@erewash.gov.uk // www.erewash.gov.uk

From: James Grundy

Sent: Wednesday, June 7, 2023 4:58 PM

To: Sam Silcocks <sam.silcocks@harrislamb.com>; Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>

Cc: Josie Hobbs <josie.hobbs@harrislamb.com>; Martin Andrews <martin.andrews@mac-ltd.co.uk>

Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Dear all

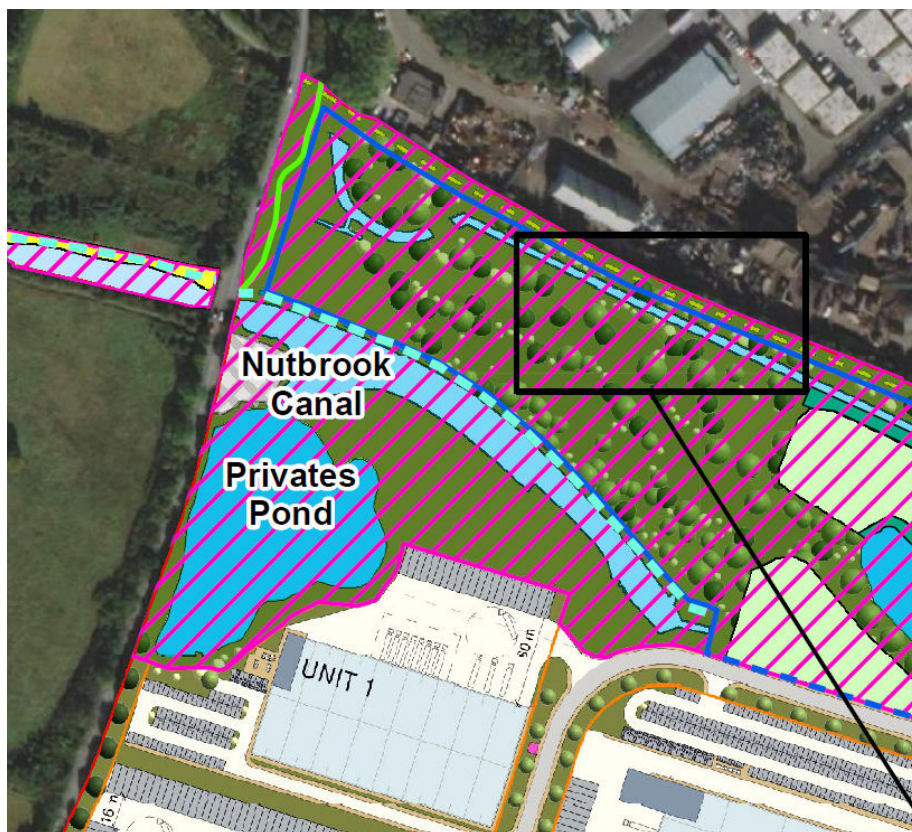
We apologise. We have made errors with regard to the Stanton North site.

Having re-visited the approved scheme we confirm the following:

The Biodiversity Plan – which forms part of the requirements of condition 18 includes this:

4.7 To maintain connectivity for people using the existing cycle route, Stanton by Dale Footpaths 20 and 24 and the road network, a formal footpath will be established in the west of the BEA, running north-south between the Nutbrook canal and the cycle route. The cycle route itself will be maintained in good condition and facilities such as benches provided. In the east of the BEA, an existing footpath will be formalised, connecting the cycle route and the development with Merlin Way and Crompton Road to the north.

The relevant plan is this:



And the condition states:

- 18 Notwithstanding that landscaping is a Reserved Matter, the Biodiversity Enhancement Areas depicted in figure 1 of the “New Stanton Park – Biodiversity Enhancement Areas – Outline Habitat Management Plan (April 2022)” shall be retained in accordance with that plan, and within 12 months of the completion of ground remediation works on the site, shall be enhanced in accordance with, and thereafter managed in accordance with, that Management Plan.

We are sorry for the confusion, wasted time and delay caused by our errors in this regard.

Having clarified that, we will write separately, shortly, in response to the proposal.

Regards

James Grundy

Senior Planning Officer

Resources Directorate, Erewash Borough Council

07834 394117 // James.Grundy@erewash.gov.uk // www.erewash.gov.uk

From: Sam Silcocks <sam.silcocks@harrislamb.com>

Sent: Tuesday, June 6, 2023 11:39 PM

To: Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>; James Grundy <James.Grundy@erewash.gov.uk>

Cc: Josie Hobbs <josie.hobbs@harrislamb.com>; Martin Andrews <martin.andrews@mac-ltd.co.uk>

Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Hi James

I think Nigel has very clearly and succinctly set out that the outline submissions next door identified the provision of this footpath and that whilst they do propose fencing to protect the habitat, this fencing does not include the footpath connection in question.

So it would appear this is something that the adjoining employment site is proposing to deliver as part of their proposal and that this can be secured through the relevant RM application.

We would welcome confirmation that this addresses your question about deliverability of the connection and that the financial contribution would meet the relevant statutory tests?

Kind Regards

Sam Silcocks BSc (Hons) MA MRTPI
Director - Planning

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From: Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>

Sent: Tuesday, June 6, 2023 9:59 PM

To: James Grundy <James.Grundy@erewash.gov.uk>; Sam Silcocks <sam.silcocks@harrislamb.com>

Cc: Josie Hobbs <josie.hobbs@harrislamb.com>; Martin Andrews <martin.andrews@mac-ltd.co.uk>

Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Dear James,

The position of the Local Highway Authority remains as set out in my email of 5 June 2023.

Derbyshire County Council does not require the Appellant to physically deliver off-site works on the land identified. A financial contribution is sought towards future delivery of part of the LCN route in that location by this Authority, together with physical works as summarised below:

1. *Section 278 Works to provide footway widening to Sowbrook Lane enabling provision of a 2.0m wide footway, with some narrowing.*

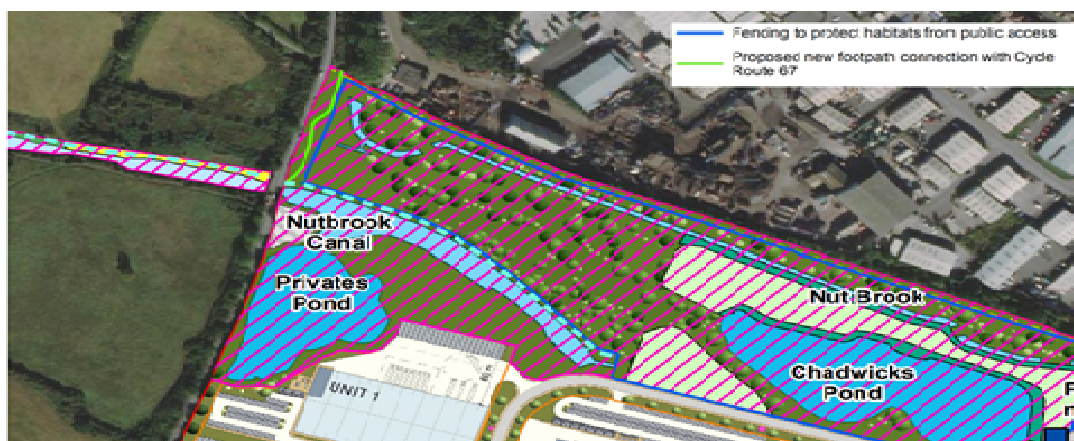
2. *Planning Obligation Agreement for provision of a pedestrian / cycle link between Sowbrook Lane and Ilkeston Road around the northern periphery of the site (southern side of the canal) and western periphery of the site south in line with Derbyshire County Council's transport Plan, to be dedicated as a public right of way.*
3. *Section 278 Works to provide a footway / cycleway along Ilkeston Road from where the route Sowbrook Lane / Ilkeston Road active travel route exits the site northwards to the canal towpath gate.*
4. *Section 278 Works to provide a crossing point on Ilkeston Road between the eastern and western sections of the canal towpath.*
5. *Planning Obligation Agreement to provide funding towards a surfaced route to an appropriate standard between the Nutbrook Canal and the Nutbrook Trail.*

With regards to the consented hybrid application reference ERE/1221/0002, the land in question does not appear to be identified as contaminated in the site investigation report which seems to place it in the undeveloped Zone 1 Area: "fields and ponds".

In consideration of the Biodiversity Enhancement Area, the "New Stanton Park Biodiversity Enhancement Area Outline Habitat Management Plan" (Final Version) dated March 2022 appears to identify the land in question for a 'proposed new footpath connection with Cycle Route 67'. Page 11, Para 4.1 of the above report states: "To maintain connectivity for people using the existing cycle route, Stanton by Dale Footpaths 20 and 24 and the road network, a formal footpath will be established in the west of the BEA, running north-south between the Nutbrook canal and the cycle route".

An extract from Figure 1, (page 23) of the Biodiversity Enhancement Area report is reproduced below. This shows the route of a proposed formalised footpath highlighted in green, outside of the proposed fenced zone, all of which are within the overall Biodiversity Enhancement Area. The proposed fence to protect habitats from public access is marked in blue, to the east of the active travel link.

The Local Highway Authority requests that this route, which appears to be already established and used by pedestrians, is safeguarded as an active travel route for future enhancement as part of the County Council's Local Cycle Network, as set out in the Outline Habitat Management Plan.



As per my previous email, I will circulate recommended conditions and other S106 / S278 inclusions as soon as possible.

Kind regards
Nigel

Nigel Atkinson BSc (Hons) MSc DIC CMILT MCIT | Highway Development Control Team Leader (Interim) |

T: 01629 533 190

E: Nigel.Atkinson@derbyshire.gov.uk



From: James Grundy <James.Grundy@erewash.gov.uk>

Sent: 06 June 2023 12:35

To: Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>; Sam Silcocks <sam.silcocks@harrislamb.com>

Cc: Josie Hobbs <josie.hobbs@harrislamb.com>; Martin Andrews <martin.andrews@mac-ltd.co.uk>

Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

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Dear Nigel

Thank you for the additional information which is all noted. My question of how the proposal would be delivered remains unanswered. Therefore, as advised in my email to Sam below, it appears that the appellant cannot rely on this land to deliver off site works for the Sowbrook Lane proposals.

We would be grateful for clarification of the Highway Authority's position in light of that.

Regards

James Grundy

Senior Planning Officer

Resources Directorate, Erewash Borough Council

07834 394117 // James.Grundy@erewash.gov.uk // www.erewash.gov.uk

From: Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>

Sent: Tuesday, June 6, 2023 7:02 AM

To: Sam Silcocks <sam.silcocks@harrislamb.com>; James Grundy <James.Grundy@erewash.gov.uk>

Cc: Josie Hobbs <josie.hobbs@harrislamb.com>; Martin Andrews <martin.andrews@mac-ltd.co.uk>

Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Dear All

For clarity, there appears to be an existing route indicated in purple on the plan below. It runs north to south through the area of land in question, on the eastern side of Ilkeston Road. I attach photographs.

Currently it is rough surfaced, as is the surrounding network of paths in the vicinity, (including the canal towpath). It is not currently fenced, nor is there any signage or physical measures prohibiting public access. This route has been identified to be improved as part of the County Council's Local Cycle Network (LCN).

As the route forms part of a desire line from the site, the Local Highway Authority is seeking a Section 106 contribution towards improving its use for active travel, to be delivered by Derbyshire County Council Public Rights of Way team as part of the County Council's wider LCN proposals.

I will circulate recommended conditions and other S106 inclusions as soon as possible.

Kind regards

Nigel Atkinson BSc (Hons) MSc DIC CMILT MCIT | Highway Development Control Team Leader (Interim) |
Economy and Regeneration | Place | Derbyshire County Council |
County Hall, Matlock, Derbyshire DE4 3AG |

T: 01629 533 190

E: Nigel.Atkinson@derbyshire.gov.uk



From: Sam Silcocks <sam.silcocks@harrislamb.com>

Sent: 05 June 2023 21:32

To: James Grundy <James.Grundy@erewash.gov.uk>; Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>

Cc: Josie Hobbs <josie.hobbs@harrislamb.com>

Subject: Re: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

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All noted.

Seems strange you wouldn't have explored this in more detail as this was part of the County's proposal with much wider strategic implications for securing sustainable travel around the Borough! Plenty of space to clear a strip, clean it up and provide additional planting elsewhere!

What alternatives did you require of them to provide suitable cycle / pedestrian links?

Best

Sam

Sent from [Outlook for Android](#)

Sam Silcocks BSc (Hons) MA MRTPI

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From: James Grundy <James.Grundy@erewash.gov.uk>

Sent: Monday, June 5, 2023 5:12:51 PM

To: Sam Silcocks <sam.silcocks@harrislamb.com>; Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>

Cc: Josie Hobbs <josie.hobbs@harrislamb.com>

Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Sam

The area of land in question forms part of the biodiversity offer for the Stanton development. Public access is deliberately excluded from this part of the site because it is heavily contaminated and to render it safe would involve destroying all the biodiversity value it has. So that part of the site was retained through masterplanning and the approved parameter plans for biodiversity enhancement and the public are excluded from that area to keep them safe. The council will not be working with the Stanton developers through Reserved Matters applications to open this area up to the public for those reasons. The contaminated land reports, biodiversity assessments and approved parameter plans are all available on our website for that application.

At present therefore, it appears that you cannot rely on this land to deliver off site works for the Sowbrook Lane proposals.

Regards

James Grundy

Senior Planning Officer

Resources Directorate, Erewash Borough Council

07834 394117 // James.Grundy@erewash.gov.uk // www.erewash.gov.uk

From: Sam Silcocks <sam.silcocks@harrislamb.com>

Sent: Monday, June 5, 2023 4:47 PM

To: James Grundy <James.Grundy@erewash.gov.uk>; Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>

Cc: Josie Hobbs <josie.hobbs@harrislamb.com>

Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Hi James

There is still plenty of opportunity for this to be secured through the RM applications and we would normally expect to see Council's take the chance to deliver these things through negotiations on planning applications when proposals come forward.

Can I ask why the opportunity has not been taken to date to secure this part of the proposed LCN through the outline application? If we can understand this, then we can assist with finding a solution for the benefit of everyone. There are measures that can deal with contamination and there are public rights of way currently running along either side of this piece of land. So it cannot be that bad.

Best

Sam Silcocks BSc (Hons) MA MRTPI

Director - Planning

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From: James Grundy <James.Grundy@erewash.gov.uk>

Sent: Monday, June 5, 2023 4:35 PM

To: Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>

Cc: Sam Silcocks <sam.silcocks@harrislamb.com>; Josie Hobbs <josie.hobbs@harrislamb.com>

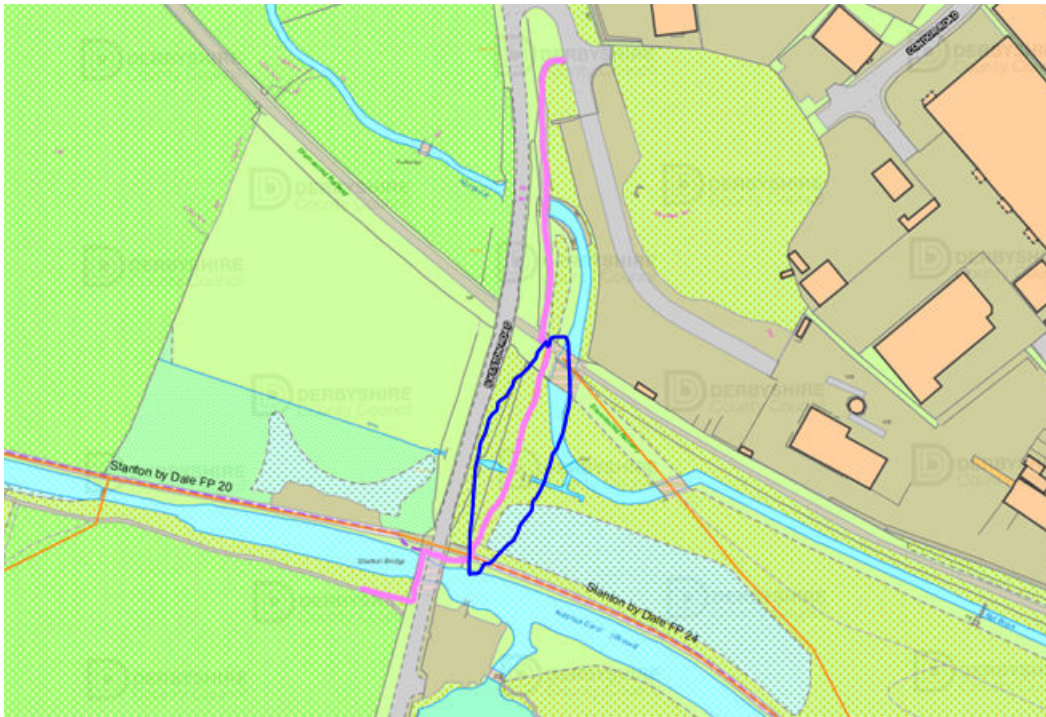
Subject: RE: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Good afternoon all

Nigel – Thank you for your comments. Please would you advise when we will receive your proposed conditions and s106 inclusions?

Josie/Sam – please see below.

We note the proposal to provide a path parallel to Ilkeston Road, as roughly marked in dark blue below.



We note that this land forms part of the site the subject of approved hybrid application reference ERE/1221/0002. We understand that the land is not in the ownership of the Sowbrook Lane site appellant or the Highway Authority. We note that the land is contaminated and that as part of the approved scheme it will be fenced in, with no public access, and will provide biodiversity enhancements.

All - In light of those factors, please would you advise how your proposal would be delivered?

Regards

James Grundy

Senior Planning Officer

Resources Directorate, Erewash Borough Council

07834 394117 // James.Grundy@erewash.gov.uk // www.erewash.gov.uk

From: Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>

Sent: Monday, June 5, 2023 12:12 AM

To: James Grundy <James.Grundy@erewash.gov.uk>

Cc: Planning <planning@erewash.gov.uk>

Subject: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

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Dear James,

RE: Appeal Reference: APP/N1025/W/23/3319160

Planning Application Reference: ERE/0722/0038

Site Location: Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

Thank you for advising Derbyshire County Council, as Local Highway Authority, of the planning appeal in connection with the above proposals. Whilst I was not involved with assessing the original submissions, I have reviewed all material submitted in connection with the original planning application submissions, reviewed the additional material supplied by the Appellant, undertaken internal discussion with the Derbyshire County Council Rights of Way Team, Active Travel Team and Passenger Transport Authority. I have also visited the site and general location and walked the current route between the site and the edge of Ilkeston and examined the current footway provision

along Sowbrook Lane. On the basis of my assessments, the current position of the Local Highway Authority in connection with the Appeal proposals is as set out below.

Firstly, with regard to the submissions that supported the original planning application, the Local Highway Authority Statutory Consultee response to the planning application was issued by Sue Highley, as set out in the attached email of 23 September 2022. At the time of the Local Highway Authority's response, a Transportation Assessment had been submitted which suggested that the site will generate between up to 150 or so two-way trips during the respective weekday peak hours. The Transportation Assessment included some analysis of the relative accessibility of the site, including access to employment, education, healthcare, food retail and town centres.

It was noted that the active travel strategy for the site concentrated on amenities in Kirk Hallam, although it is likely that residents would be attracted to the more comprehensive facilities in Ilkeston. There are currently no footways on Ilkeston Road for a considerable distance north of the site resulting in the need for pedestrians to walk in the carriageway of Ilkeston Road. No footway provision was proposed as part of the original submissions, nor alternative mitigation suggested at the time of the original submissions.

The transport assessment considered several offsite junctions. These were assessed based on classified turning counts undertaken Thursday 21 October 2021, prior to New Stanton Park (ERE/1221/0002) receiving planning consent. In response to this, the Local Highway Authority requested that a cumulative assessment was undertaken with New Stanton Park included as committed development, together with some modifications to the vehicular access arrangements and provision of improved means of pedestrian access. As an alternative to undertaking further work, based on what had been submitted to support the original application, the Highway Authority recommended refusal on the following two grounds:

- 1. The applicant has not satisfactorily demonstrated that approval of the proposed development would not have a significant impact on the operational capacity or condition of safety on the existing transportation network. For the avoidance of doubt, any further consideration of this development by the Highway Authority would require a cumulative impact assessment to be undertaken on behalf of the developer to understand the impacts of this development along with the approved New Stanton Park development, amended and additional drawings.*
- 2. Approval of the proposal would result in the introduction of a significant number of pedestrian movements at a location where no footways provision exists requiring pedestrians and other vulnerable users to use the carriageway, increasing the potential for conflict with vehicles contrary to the best interests of highway safety.*

The Application was subsequently REFUSED (refusal notice dated 13 October 2022) and, the following reasons for refusal included on the basis of the Local Highway Authority's recommendations in relation to the originally submitted scheme:

" 2. The proposal would result in the introduction of a significant number of pedestrian movements at a location where no footways provision exists requiring pedestrians and other vulnerable users to use the carriageway, resulting in conflict with vehicles contrary to the best interests of highway safety. As such, the proposal is contrary to the requirements of the NPPF.

3. The applicant has not satisfactorily demonstrated that approval of the proposed development would not have a significant impact on the operational capacity or condition of safety on the existing transportation network. As such, the proposal is contrary to the requirements of the NPPF".

In addition to the Reasons for Refusal recommended by the Local Highway Authority, an additional transport and accessibility reason for refusal, (Reason for Refusal Number One) was also been included on the Decision Notice. This states.

“ 1. The site is unsustainably located, remote from services, with poor options for walking and cycling to services further afield. As such, the proposal is contrary to the requirements of the NPPF, the National Design Guide, Core Strategy Policy 10: Design and Enhancing Local Identity and Core Strategy Policy 14: Managing Travel Demand”.

Whilst the latter Reason for Refusal is transport related, it was not recommended by the Local Highway Authority in its statutory consultee response. It is noted that the site is adjacent to the New Stanton Park employment site that a range of facilities are within reasonable walking distance (up to 2km). Furthermore, the Appellant has agreed to fund an extension to the existing bus service which operates during the middle of the day so that it operates Monday to Saturday 0700-1900 every hour, for a period of 5 years post development. The Passenger Transport Authority has been consulted on this and has confirmed that the proposals would be acceptable. This would offer a benefit to the wider area served by the route. Additionally a development wide Travel Plan would operate on the site.

For clarity on the above matter, the Local Highway Authority's position is that whilst local facilities could be considered to be within reasonable distance from the site (and would be improved further by extending the bus service), the quality of the route to local facilities by active travel modes is currently poor, as set out in Reason for Refusal Number Two.

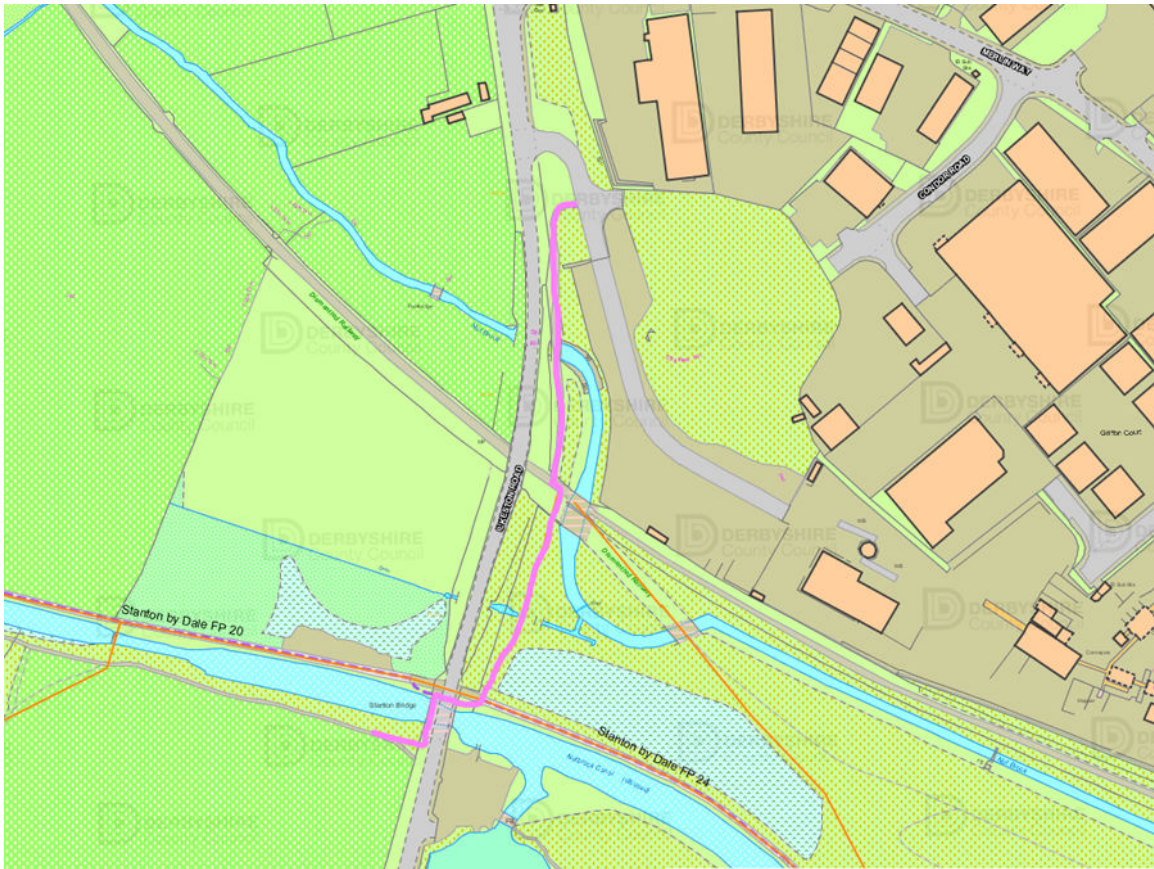
Pursuant to the above and in line with the Planning Inspectorates guidances which encourages all parties to engage in pre-inquiry discussions, an Addendum Transport Assessment was submitted on behalf of the Appellant on the 31 March 2023 (attached for ease of reference), which sought to address the Highway Authority's comments. The Local Highway Authority has reviewed matters set out in the Addendum Transport Assessments and offers the following additional comments on the Appeal proposals.

With regard to the first highways recommendation for refusal (reason for Refusal Number 3), it has been noted that the Appellant has now undertaken a cumulative assessment of the local junctions previously identified and as previously requested by the Local Highway Authority. This indicates that the impact of the development on the Local Highway Network is not considered to be considered significant when assessed cumulatively with New Stanton Park and mitigation measures already secured in relation to the latter development, together with highway improvements to be delivered as part of this development by way of Agreement under Section 278 of the Highways Act.

In consideration of the additional material submitted in connection with the above, the Local Highway Authority considers that its first recommendation for refusal has now been addressed by the Appellant. It may be covered by condition and appropriate legal agreement. The Highway Authority Recommendation for refusal (set out in Reason for Refusal number 3), is therefore withdrawn.

With regard to the second highways recommendation for refusal (Reason for Refusal Number 2), this relates to current the lack of a section of footway along Ilkeston Road (to the north) and below standard sections of existing footway along Sowbrook Lane. The Appellant has engaged in pre-Inquiry dialogue with the Local Highway Authority and Derbyshire County Council Rights of Way team concerning provision of active travel routes in the vicinity of the site in connection with this matter.

It has been noted as part of the Addendum Transport Assessment that there is an existing Key Cycle Network (KCN) Sustrans route (the Nutbrook Trail) running approximately northwest to south-east a short distance to the north of the site. Within its current Transport Plan, Derbyshire County Council has proposals for a Local Cycle Network (LCN) to link to this southwards to the Nutbrook Canal, with a crossing facility on Ilkeston Road and then a pedestrian / cycle link through the appeal site to Sowbrook Lane. The above is set out on Derbyshire County Council's website: <https://www.derbyshire.gov.uk/transport-roads/transport-plans/sustainable-travel/cycling-walking-plans/cycling-and-walking-plans.aspx>. The intended route of Local Cycle Network is indicated purple on the plan below. It should be noted that it *is routed through the Appeal site*:



Having visited and walked the route of the LCN on Thursday 1 June 2023, it was observed that:

- The Key Cycle Network (KCN) is in place and forms part of a longer distance Sustrans route to the wider area. It is surfaced to a high standard.
- The northern section of proposed LCN (to the north of the Nutbrook Trail linking to Ilkeston Road) is already in place and surfaced to a high standard. There is no requirement for any provision or improvement of this section of the route northwards from the Nutbrook Trail to Ilkeston Road.
- The section of LCN between the Nutbrook Trail and the Nutbrook Canal is in place and although unlit, appears to have significant use by pedestrians, but on an informal basis that would require further surfacing and formalisation to facilitate cycle use.
- There is currently no crossing point on Ilkeston Road from the canal footpath. The section through the site does not currently exist, although the Derbyshire County Council's plan shows its future provision.

Following subsequent discussion with view to setting out matters in Angreed Position Statement, the applicant has indicated that they would provide the following Active Travel improvements in the vicinity of the site to address the original concerns raised by the Local Highway Authority:

1. *Section 278 Works to provide footway widening to Sowbrook Lane enabling provision of a 2.0m wide footway with some narrowing. This addresses issues concerning pedestrian access eastwards from the site to Kirk Hallam and is considered acceptable by the Local Highway Authority.*
2. *Planning Obligation Agreement for provision of a pedestrian / cycle link between Sowbrook Lane and Ilkeston Road around the northern periphery of the site (southern side of the canal) and western periphery of the site south in line with Derbyshire County Council's transport Plan, to be dedicated as a public right of way. This is considered to be acceptable to the Local Highway Authority and in line with its current Travel Plan as published on the Derbyshire County Council website.*

3. *Section 278 Works to provide a footway / cycleway along Ilkeston Road from where the route Sowbrook Lane / Ilkeston Road active travel route exits the site northwards to the canal towpath gate. This is considered to be acceptable to the Local Highway Authority and in line with its current Travel Plan as published on the Derbyshire County Council website.*
4. *Section 278 Works to provide a crossing point on Ilkeston Road between the eastern and western sections of the canal towpath. This is considered to be acceptable to the Local Highway Authority and in line with its current Travel Plan as published on the Derbyshire County Council website.*
5. *Planning Obligation Agreement to provide funding towards a surfaced route to an appropriate standard between the Nutbrook Canal and the Nutbrook Trail, specification to be agreed with the Derbyshire County Council Rights of Way Team. This is considered to be acceptable to the Local Highway Authority and in line with its current Travel Plan as published on the Derbyshire County Council website.*

The provision of the above works would enable off-carriageway walking and cycling trips through the site between Sowbrook Lane and Ilkeston Road, improve pedestrian access to Kirk Hallam and provide for pedestrian trips northwards into Ilkeston off-carriageway, where there is currently no footway on the existing former railway bridge over the Nutbrook Trail. The proposed active travel measures are considered to be acceptable by the Local Highway Authority as they are in line with its own Transport Plan aspirations and would overcome its concerns in relation to pedestrian and cycle movements to the north along Ilkeston Road.

In relation to the above, the Local Highway Authority considers that the second recommendation for refusal, (Reason for Refusal Number 2), would be addressed by the measures set out above being delivered. The Appellant has indicated that they would agree to do so. Having reviewed all the above, the Local Highway Authority considers that any outstanding matters may be covered by planning conditions and appropriate legal agreement which the Appellant has expressed a willingness to enter into. On the above basis, the Local Highway Authority's previously recommended objection to the proposals is withdrawn.

It is noted that a list of suggested Section 106 Obligations has already been circulated by Erewash Borough Council. This needs to be revised to include the active travel measures set out above. We will provide, by separate cover, a list of recommended conditions and planning obligation agreement measures that we request are included on any permission granted.

I trust this clarifies the Local Highway Authority's position with regard to this Appeal. Please do not hesitate to contact me should you wish to discuss further.

Kind regards

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