

**EBC PLANNING POLICY COMMENTS**  
**RESPONSE TO PLANNING APPLICATION**

SITE NAME: Land north-west of 1-12 Sowbrook Lane, Ilkeston

SITE SIZE: 10.3ha

OFFICER: Adam Reddish

DATE: 26/8/2022

REFERENCE: ERE/0722/0038

**SYNOPSIS OF PROPOSAL:**

This is an outline planning application seeking consent for establishing means of access to the site. All other matters are reserved. Whilst only outline, the application indicates that consent is sought for up to 196 dwellings and an indicative masterplan showing a development layout is included as part of the application. The application site extends across a sizeable area of agricultural land north and north-west of the junction between Sowbrook Lane and Ilkeston Road adjoining the Grade II Listed row of cottages at Twelvehouses. These two highways provide strong physical southern and eastern boundaries, whilst a section of the disused Nutbrook Canal and two ponds help delineate the northern and western boundaries of the site respectively.

**KEY NATIONAL PLANNING POLICY GUIDANCE:**

**Paragraph 11** establishes that plans and decisions should apply a presumption in favour of sustainable development. **11d** states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless the application of policies in the NPPF protecting areas or assets of particular importance provides a clear reason for refusing the development proposed. Or, any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

**Paragraph 20** states that strategic policies should set out an overall strategy for the pattern, scale and design quality of places, and make sufficient provision for housing (including affordable housing), employment, retail, leisure and other commercial development.

**Paragraph 60** sets out the position in respect of meeting the Government's objective of significantly boosting the supply of homes and the importance of identifying sufficient and different types of land in locations where it is needed.

**Paragraphs 48 & 49** explain the weight policies in emerging plans can have when used in the determination of planning applications.

**Paragraph 73** recommends that the supply of large numbers of new homes can often best be achieved through planning for larger scale development, such as new settlements or significant extensions to existing villages and towns, provided they are well located and designed and supported by the necessary infrastructure and facilities (including a genuine choice of transport modes). Councils are encouraged to identify suitable locations for large-scale development where this can assist meeting identified needs in a sustainable way. In doing so, councils should consider whether it is appropriate to establish Green Belt around or adjoining new developments of significant size.

**Paragraph 74** requires councils to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their

housing requirement as set out in adopted strategic policies or against their local housing need if where strategic policies are in excess of five years old.

**Paragraph 139** identifies that proposals for new Green Belts should be set out in strategic policies and adhere to criterion set out in the NPPF justifying such action.

**Paragraph 143** establishes what development plans should take account of when defining Green Belt boundaries.

#### **KEY LOCAL PLANNING POLICY GUIDANCE:**

The Erewash Core Strategy (ECS) is now out-of-date given it was adopted more than five years ago in March 2014. The most significant consequence of an out-of-date Local Plan relates to how decision-making should be approached when considering the suitability of any proposal featuring residential development. This is explained in more detail at **Paragraph 11d** of the NPPF and reference is made to the guidance earlier in this response.

**Policy A: Presumption in favour of sustainable development** establishes the Council's positive approach to how the provisions within the NPPF are to be addressed when determining planning applications.

**Policy 2: The Spatial Strategy** establishes a framework which sets out how the Council plan to deliver 6,250 new homes over a period between 2011 and 2028. This is centred on a strategy of urban concentration with regeneration. The policy breaks the Borough into sub-areas and establishes housing requirements for the Ilkeston (4,500 homes), Long Eaton (1,450 homes) and Villages (300 homes) areas.

**Policy 10: Design and Enhancing Local Identity** (explained below)

**Policy 14: Managing Travel Demand** (explained below)

**Policy 20: Stanton Regeneration Site** is a site allocation policy establishing the type, mix and scale of specific uses and infrastructure required to deliver a new sustainable community south of Ilkeston.

#### **GENERAL OBSERVATIONS:**

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**.

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. 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.

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. The designation of land as Green Belt across the application site (and extending slightly beyond) provides a degree of openness between an expanded Kirk Hallam and new industrial facilities at Stanton North. 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.

Granting consent for a major housing development at the application site would undermine the ability to maintain openness between an expanding settlement and a strategically sized new employment zone. It is therefore felt that both criterion a) and b) of NPPF Para 49 can reasonably be met in supporting the refusal of the application.

In addition to the issues between the application, the CSR and the plan-making process more generally, it is also necessary to explore the application site's spatial relationship with its surroundings.

The site sits at the corner of Sowbrook Lane and Ilkeston Road, a busy priority T-junction with vehicles travelling on the former required to give way to the latter. Land adjacent to the site displays a diverse range of uses; ranging across an electrical sub-station, private ponds, listed residential properties and currently under-utilised/vacant employment land.

Notwithstanding these uses, the wider area is largely undeveloped and feels remote from any nearby settlement. An analysis of local facilities shows the closest cluster of shops and services to be located 1.6km away at Queen Elizabeth Way. A more limited range of services can be accessed at Stanton-by-Dale also 1.6km away from the application site - albeit this journey involves a progressively steepening route, limiting the ease in which these facilities can be accessed.

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.

**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.

### **Emerging planning policies:**

This response has already considered why it may be appropriate to refuse permission for this proposal based on provisions from the NPPF that show the development struggles to conform to the draft spatial growth framework proposed by the CSR identifying specific locations where strategic-scale housing development is considered sustainable.

Additionally, the application site is located within an area of the Borough that the CSR proposes to allocate as a Strategic Green Infrastructure Corridor (SGIC). The Nutbrook SGIC, one of four in Erewash, forms a key off-road, non-motorised GI route running around the west and south of Ilkeston. Objectives of the SGICs are to provide sustainable floodwater management, biodiversity improvement (including natural carbon capture), active travel and open space recreational uses.

Major residential development within the draft Nutbrook SGIC would compromise the objectives of Strategic Policy 5: Green Infrastructure, as the proposal would adversely affect the ability of the policy to create SGICs that can achieve the key characteristics as set out in the policy. Whilst SGICs are not development proposals per se (although some appropriate forms of development that complement the stated objectives would be supported), the application does raise the same issues concerning its prematurity against the CSR. A major residential scheme within the extent of a SGIC would undermine the role the Council wishes such areas of the Borough to play.

It should be noted that whilst the SGA25 SWKH allocation sees the proposed Nutbrook SGIC penetrate into an area earmarked for new housing, this is to help secure a sustainable connection between a strategic growth area and a vital Green Infrastructure corridor. The Council will expect to see the layout of development at SWKH complement and integrate with an arterial branch of the SGIC to foster sustainable travel behaviour - in addition to the other objectives set out above. In contrast to this, the application proposal would in effect urbanise a sizeable area of the Nutbrook SGIC and undermine the ability for it to contribute to these objectives, whilst also drastically reducing the GI corridor to an unsustainably narrow width.

### **CONCLUSION:**

The development proposal at up to 196 homes is considered to be of strategic-scale in terms of its size and impact it would have on key local infrastructure as well as being comparable to other allocated housing sites in the CSR. Despite its location outside of designated Green Belt in Erewash, the site's location is considered unsustainable because of a poor level of connectivity, both to other nearby residential areas and to local retail services that households rely upon. The poor connectivity is borne out by the shortcomings of a transport infrastructure around the application site that would be tasked with linking it (and any future occupants) to surrounding destinations. Of particular concern are the substandard facilities that exist for those wishing to travel by non-motorised means (walking and cycling) as well as an infrequent bus service serving the site. This is characterised by unlit sections of highway, an absence of safe crossing points at this point on a busy local road network and a lack of pavement forcing pedestrians onto the highway. For these reasons, EBC Planning

Policy are of the view that proposals cannot demonstrate sufficient conformity to Policies 10 and 14 of the ECS.

Amenity concerns are also another reason in which the proposal is felt to be inappropriate. In addition to the lack of nearby community services and facilities within the wider area, the site's proximity to a now consented (albeit outline) strategic employment zone east of Ilkeston Road (Stanton North) would leave an unacceptably small proximity between a major residential development and a significant industrial hub. It is concluded that new households across the application site would be subject to substandard levels of residential amenity because of development.

EBC Planning Policy also has concerns over the lack of conformity proposals in the application have with emerging local planning policy. It is uncontested that the Council cannot currently identify a five-year supply of deliverable housing land (although this will be rectified in time for when the CSR is submitted to the Secretary of State later this year). However, the principle purpose of reviewing the Core Strategy was to identify strategic sites that would contribute to a significant boost in terms of the supply of deliverable housing land and the speed in which new homes would be built to address long-standing underperformance. To this end, the Council through the development of its CSR has followed a process that has enabled it to establish and rigorously test a spatial growth strategy, allowing for the identification of several sustainable and strategic-sized housing sites to meet its assessed local housing need. The five sites identified help provide the boost to the local housing supply and anticipated delivery that are necessary to satisfy requirements as set out in national policy.

A key proposal of the CSR is the allocation of additional Green Belt land across an area that the application site sits wholly within. The reasons for the addition of GB have already been discussed earlier in this response, but it is clear that a proposed residential development strongly conflicts with and prejudices the Council's planned expansion of Green Belt between Kirk Hallam and the Stanton North strategic employment site. Additionally, the application site also forms part of a Strategic Green Infrastructure Corridor (SGIC) identified by Strategic Policy 5: Green Infrastructure. Similar to the aims of Green Belt designation, new homes at this location would also prejudice the ability to create the necessary conditions and character commensurate with the desired policy objectives of a SGIC.

In summary, the Council's Planning Policy section do not support the principle of housing development at this location. The site represents an inappropriate and unsustainable location to provide new housing, with proposals in conflict and incompatible with emerging policies within an advanced review of the Council's development plan.