

James Grundy

From: Nigel Atkinson (Place) <Nigel.Atkinson@derbyshire.gov.uk>
Sent: 12 June 2023 09:31
To: James Grundy
Cc: Sarah Bond (Corporate Services and Transformation); Paul Bigg (Place)
Subject: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale - Recommended Transport Conditions and matters be covered by appropriate legal agreement

Categories: to be filed

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

I write further to the previous Local Highway Authority response set out in the email of 5 June 2023, (copied below for ease of reference). Should the appeal be allowed, the Local Highway Authority recommends that the following matters are included in an appropriate legal agreement:

- (i) funding towards a surfaced route to an appropriate standard between the Nutbrook Canal and the Nutbrook Trail, financial contribution to be agreed following further discussion with the local highway Authority*
- (ii) a financial contribution to cover the costs of extending the existing council funded bus service to cover the peak period for five years from the commencement of occupation of the development, level of contribution to be agreed following consultation with Derbyshire County Council as Passenger Transport Authority*
- (iii) 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*
- (iv) Operation of a Travel Plan for the site, requirements to be agreed in writing by Derbyshire County Council*
- (v) Highways Improvements to the junction at Lows Lane and Littlewell Lane as generally indicated on drawings as shown on drawing references 450-TA12 and 450-TA81. Prior to Occupation of the first Dwelling the owner will submit the Highways Improvement Plan for approval and not more than 90% of the Dwellings shall be Occupied until the Highways Improvements have been delivered.*

We would also recommend the following draft planning conditions be imposed on any consent granted.

- 1 Prior to commencement of the development, a construction management plan shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the demolition/construction period. The plan/statement shall include but not be restricted to:
 - Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
 - Advisory routes for construction traffic;
 - Any temporary access to the site;
 - Locations for loading/unloading and storage of plant, waste and construction materials;
 - Method of preventing mud and dust being carried onto the highway;
 - Arrangements for turning vehicles;
 - Arrangements to receive abnormal loads or unusually large vehicles;
 - Highway Condition survey;
 - Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

Reason: In the interests of safe operation of the adopted highway in the lead into development both during the demolition and construction phase of the development.

- 2 No development, including preparatory works, shall commence until the new vehicular and pedestrian accesses to Sowbrook Lane and Ilkeston Road have been constructed in accordance with the approved plans. The junctions shall be constructed to base level, drained, lit, provided with white lining, signage and visibility sightlines as shown on the approved plans. The area within the sightlines shall thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level.

Reason: To ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highway.

- 3 Before works to create a new estate street take place, construction details of the residential estate streets and footways (including layout, levels, gradients, surfacing and means of surface water drainage via a positive gravity-fed system discharging to a public sewer, highway drain or watercourse) shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details. For the avoidance of doubt the applicant is advised to agree the construction details with the Highway Authority prior to discharging this condition.

Reason: To ensure safe and suitable access for all users, in the interests of highway safety. This needs to be a pre-commencement condition to ensure fundamental elements of the development that cannot be retrospectively designed and built are planned for at the earliest possible stage in the development and therefore will not lead to expensive remedial action and adversely impact on the viability of the development.

- 4 Prior to the first occupation of each dwelling, space shall be provided for the parking of vehicles associated with that dwelling in accordance with the approved plans and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, such space shall be maintained throughout the life of the development free of any impediment to its designated use. For the avoidance of doubt, where a garage is to be counted as a parking space, the internal dimensions shall not be less than 3m wide by 6m long with any service or vehicular doors opening outwards.

Reason: To ensure adequate parking and turning provision, in the interests of highway safety.

- 5 No individual dwelling in the development hereby approved shall be occupied until details of bicycle parking has been provided in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority and shall be maintained for this purpose thereafter.

Reason: To promote sustainable travel and healthy communities

- 6 An electric vehicle infrastructure strategy and implementation plan shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of any dwelling hereby permitted. The plan shall contain details of the number and location of all electric vehicle charging points and shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851, and Derbyshire Highway Design Guide. Dwellings and parking spaces that are to be provided with charging points shall not be brought into use until associated charging points are installed in strict accordance with approved details and are operational. The charging point installed shall be retained thereafter unless replaced or upgraded to an equal or higher specification.

Reason: To promote sustainable travel and healthy communities.

- 7 The Development hereby approved shall not be occupied until the following works have been constructed and completed:
 - Provision of bus stops, (location and specification to be agreed with the passenger Transport Authority);
 - Active travel measures to include;

- Prior to first occupation of the development, a travel plan shall be commenced operation on the site, the specification of which is to be agreed with the Local Highway Authority prior.
- Works to provide footway widening to Sowbrook Lane enabling provision of a 2.0m wide footway with some narrowing.
- 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.
- 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.
- 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.

Reason: To ensure that the proposed development is accessible by all modes and to ensure the safe and free flow of traffic onto the highway.

Informative: Any works undertaken on the public highway in connection with the above, will require the developer to enter into an agreement with the local Highway Authority under Section 278 Agreement under the Highways Act 1980.

Kind regards

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CONTROLLED

From: Nigel Atkinson (Place)
Sent: 05 June 2023 00:12
To: james.grundy@erewash.gov.uk
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Subject: APP/N1025/W/23/3319160 / ERE/0722/0038 – Land North West of 1 to 12 Twelve Houses, Sowbrook Lane, Stanton by Dale

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.

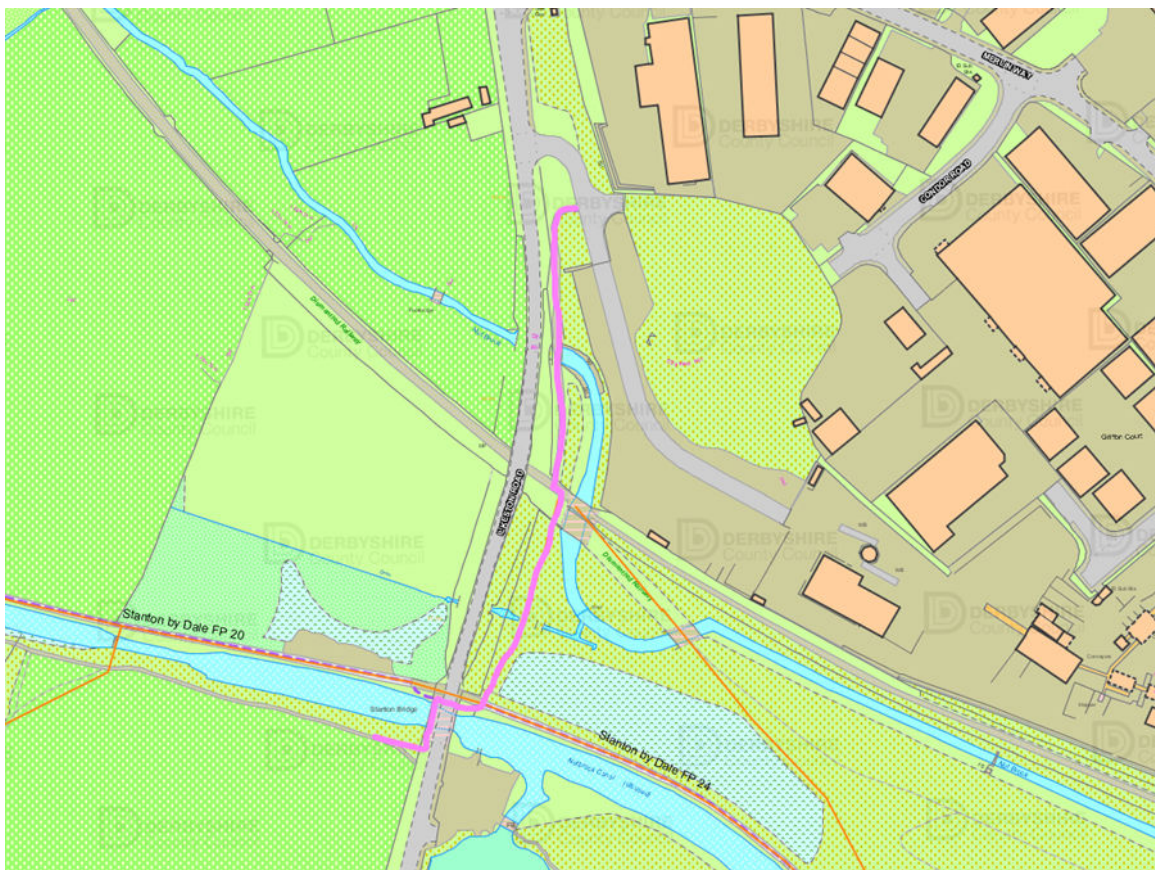
Pursuant to the above and in line with the Planning Inspectorates guidances which encourages all parties to engage in pre-inquiry discussions, an Addendum Transport Assessment was submitted on behalf of the Appellant on the 31 March 2023 (attached for ease of reference), which sought to address the Highway 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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