

PLANNING APPLICATION 9/2014/1145

Land at Jawbone Lane, Kings Newton

Residential Development of up to 120 dwellings – Outline Application (all matters reserved)

Melbourne Civic Society OBJECTS to this development on similar grounds to those set out in detail in respect to application 9/2014/1141 except that there are **additional stronger planning grounds for rejecting this proposal**.

Housing development on this scale on this site is contrary to saved policies in the approved Local Plan and contrary to proposals in the Draft Local Plan which has now been subject to scrutiny by an Inspector at the recently completed Public Enquiry.

The Draft Local Plan makes adequate provision to meet all the housing needs allocated to South Derbyshire within the Derby Area Housing Market Area, and development on this site, and on the site to the south which is the subject of a separate submission, would constitute a strategic housing allocation in the wrong place and would therefore prejudice the successful implementation of the new Local Plan and the emerging Part 2 Neighbourhood Plan.

The application has a number of fundamental flaws, namely

1. The use of Jawbone Lane as one of its accesses is unacceptable in the manner proposed. The Lane itself, especially at its northern end, is very narrow and has very restricted visibility at its junction with Main Street, which is potentially hazardous. At the moment it is very lightly trafficked and a well-used leisure route for cyclists and walkers. The developer makes no provision to safeguard their amenity and safety. In practice, the northern junction is likely to be the main route for traffic entering and leaving the site wishing to access the many job opportunities in Derby, and the increased traffic will greatly increase the likelihood of serious traffic accidents. The impact of the proposed development on highway safety and amenity at the Main Street junction is therefore unsustainable and should be refused.
2. The combined effect of increased traffic flows from this site and the site to the south across Swarkestone Causeway will lead to further delays, hazards to vehicles and cyclists, and potential damage to the Ancient Monument itself. The Causeway is one of the principal reasons why Melbourne is not a suitable site for strategic housing developments in the Draft Local Plan, and speculative housing developments of the kind now proposed are unsustainable and contrary to NPPF policies. The accompanying Traffic Assessment carried out by Woods Hardwick consultants does not address the impact of increased traffic flows on the Causeway, and neither does it address the impact on traffic and parking in the town centre. Indeed, in the latter case the consultants assume that most new residents will walk. This assumption is unrealistic and the Transport Assessment as a whole –all 331 pages of it - is flawed. The application should be refused on traffic grounds.

3. Although in outline, the application is accompanied by an illustrative layout for up to 120 houses. This does not provide for the needs of the local housing market. For example, no provision is made for homes suitable for retired elderly residents nor does it provide apartments to meet the needs of young single households. At present the latter group is hardly catered for at all in the existing housing stock, and young people with local jobs are forced to seek accommodation in Derby or other more distant cities. This is unsustainable because it actually encourages commuting by car. Public transport is not a viable alternative mode because the existing bus service is not fit for purpose: it is infrequent, tortuous, and unpleasantly long, and for these reasons is little used. By encouraging commuting the development would be incompatible with NPPF policies.

4. The site is subject to excessive noise levels from low-flying aircraft, and the developer's noise assessments have been carried out in conditions and at times which do not reflect real conditions and are therefore incomplete and highly misleading. The Society's full appraisal is set out in Annexe A.

Noise at the site was measured by the developer's noise consultants over two periods, the first in westerly winds when aircraft do not overfly the site, the second at a bank holiday weekend when no freight aircraft were operating. On the basis of these quiet periods, the report argues that traffic on Station Road is the dominant source of noise affecting only the eastern boundary of the site. Local residents living in Station Road (and in Main Street) have told us that this conclusion is absurd. Aircraft approaching East Midlands Airport (EMA) from the west fly directly over the site and, with the normal fleet mix including very large freighters, aircraft noise is by far the most intrusive noise over the whole of this site.

To have any planning relevance, the applicant should be required to measure noise when aircraft overfly the site and freight aircraft are operating (easterly wind conditions on Monday - Friday), and repeat the noise assessment for this noisy situation. The developer's current assessments of less noisy conditions is not credible, nor is it a valid basis for the design of new residences.

A new noise assessment in accordance with the specification, also set out in Annexe A, would be essential before this application is given serious consideration. If that is not forthcoming permission should be refused on the grounds that new residents would suffer both amenity and health losses from excessive noise conditions, contrary to the guidance given in paragraph 123 of the NPPF.

5. New housing development recently completed to the south of Station Road has led to serious flooding in Station Road and within that development proper. This application proposes foul and surface water drainage into the same sewers which have recently overflowed, and the submission makes no allowance for this situation and proposes no remedies to prevent a recurrence. Indeed, the applicant's Flood Risk Assessment – see para 3.14 - makes the assumption that the tank sewer constructed a few years ago by Severn Trent Water is capable of handling flash flooding of the Station Road sewerage system. This is manifestly unsound. The flooding which occurred in July 2014 took place AFTER the tank sewer had been constructed and was proved to be inadequate. Without further remedial measures this development would exacerbate drainage problems in Station Road and within the Millbrook Estate. Until a full technical appraisal has been carried out, this application is premature and should be refused on drainage grounds.

6. This application, far more so than the application for 69 houses on the land to the south, is open to strong objection owing to its adverse effect on the setting of the Kings Newton Conservation Area. The NPPF stresses the importance of safeguarding the setting of demonstrated heritage assets. In this instance the heritage asset has been identified in the Kings Newton Conservation Area Character Statement adopted by the Council in 2011 and includes the following:

“There is a sharp contrast where these narrow passages open out, where they meet the fields, and there are long vistas out over Melbourne to the south and as far as Breedon-on-the-Hill. The church towers of both parish churches are prominent landmarks. The open character of the market gardens with their expanses of vegetables is in sharp contrast with the tight-knit form of the development behind Main Street.”

The applicant’s consultants have failed to give sufficient weight to this Character Statement. The open countryside separating Kings Newton from Melbourne proper, and its network of rural public footpaths, is an amenity and a heritage asset which will be lost if this development is approved. The application ignores this adverse impact: indeed, the developer’s submission, para 2.10, contains the following extraordinary statement:

“The (development of the) site will create a bridge between the two areas (Kings Newton and Melbourne), linking them together with further development and affluence in opportunities for the community and area...”

What the developer is saying here is that building houses on this site will join the two communities together – the exact opposite to all previously approved planning policies, and contrary to NPPF heritage policies set out in paragraphs 132 and 134 of the National Planning Policy Framework. In this respect the application is seriously flawed.

Planning permission should be refused on grounds that the development would adversely affect the setting of the Kings Newton Conservation Area, contrary to national planning policies.

7. The Parish Council has resolved to prepare a Neighbourhood Development Plan (NDP) under the provisions of the Government’s Localism Act. Any such Plan will involve extensive consultation with local residents (this first of which took place on Saturday January 24th) and this will lead to specific housing proposals in accordance with the new Local Plan. In the meantime, any consideration of this application would be premature and likely adversely to affect the NDP’s outcome. Indeed, if permission were granted there would be little point in preparing such a Plan because there would be more than sufficient housing approvals to meet all housing need targets before the end of the Local Plan period in 2028.

In this respect, the Secretary of State’s decision dated 15th December 2014 refusing planning permission for 100 homes in Rolleston on Dove in East Staffordshire is of special relevance. He concluded that the appeal proposal...” undermines the neighbourhood plan-making process by predetermining decisions about the scale and location of new development central to the emerging NP”. He dismissed the appeal and refusing consent, and further noted that granting permission would have both prejudiced emerging local planning policies and had “wider implications for neighbourhood planning nationally”.

The two concurrent application on land in Jawbone Lane would have similar adverse effects on the plan-making process to those identified in the Secretary of State's Rolleston on Dove appeal decision letter, and should be refused for the same reasons.

8. This site, and that to the south, is an area of good quality productive market garden land albeit not used for this purpose in recent year by the current landowner in anticipation of securing planning permission for housing development. At a time of increasing national and global population the country cannot afford to lose its ability to feed its people, and this is recognised in the NPPF policy 112 which states:

“Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.”

In this instance there is no necessity to build on this site, which is not allocated for development in any development plan, and the local planning authority has made strategic housing land allocations elsewhere to meet all future demand.

The erection of 120 homes on this site would be contrary to government policy and unsustainable should be refused.

9. Melbourne is not a key service village that can accommodate new housing developments on the scale proposed in this and other speculative development applications, and the long-term effects on Melbourne's schools, health facilities and services would seriously detract from the character and amenity of the community.

It is the Society's view that the South Derbyshire Local Plan is now in an advanced state, that the Melbourne Neighbourhood Development Plan is being prepared, and that any consideration of this application having regard to S49 of the NPPF (relating to a five-year supply of available housing land) is no longer relevant. Indeed, the latest (December) Housing Land Availability assessment by the Council suggests that the 5 year supply is close to being achieved.

Permission can and should be refused on sound planning grounds, for all the reasons set out above, and in line with government policy set out by the Secretary of State in the Rolleston on Dove appeal decision.

It is further submitted that this application should be considered at the same time and in the same context as application 9/2014/1141, and both be refused. There are sound planning reasons for so doing.

ANNEXE A

Noise Assessment – Application 9/2014/1145 – Jawbone Lane Melbourne

To assess this noise report, it is helpful to understand the noise impact on the Jawbone Lane site of standard aviation operational procedures and traffic distribution at EMA.

Operational Procedures. When landing or taking off, aircraft always fly into the wind. With a westerly wind, aircraft take-off from EMA to the west, towards Melbourne, and follow well defined noise routes to the north or to the south of Melbourne. The northerly route is about 1 mile from the proposed site, and the southerly route is over 1 mile away. Thus, in westerly winds, this site is not overflowed by aircraft and the impact of aircraft noise is not great.

In easterly winds, landing aircraft approach from the west, in line with the EMA runway, and fly directly over the site. All landing aircraft follow the same route, overflying this site at low altitude, so the site is much noisier in easterly wind conditions.

EMA Traffic Distribution. In 2013 there were 62,000 commercial air transport movements (ATMs) carrying passengers or cargo, of which 21,000 (33%) were at night, 23.00-07.00. On average the frequency of night ATMs is the same as day time. In addition to ATMs there were 14,000 other flights by light aircraft which have little impact on noise. Figures for 2014 are not yet available though are expected to be somewhat higher.

EMA is a hub for international express parcels companies, and for Royal Mail, so the majority of cargo flights are at night, concentrated into the working week i.e. Monday to Friday nights, with variations at bank holidays. There is a peak of arriving cargo flights on weekday evenings (approx. 19.30-10.00). There are fewer cargo flights on Friday, and virtually none over the weekend. The cargo fleet includes very large aircraft: Boeing 777, B767 and B757 freighters operate every working night. In 2013 there were 16,500 night cargo flights equivalent to 8 movements every hour on Monday - Friday nights.

Passenger flights are very seasonal with a peak of flights in June-September.

Thus the noisiest conditions at the site occur in an easterly wind on a summer weekday (Monday-Friday), while periods of westerly winds are much quieter.

Noise measurement period – Period 1. 13.27 on 13th May 2014 to 10.42 on 14th May 2014.

The report gives no indication of the wind direction in this period, so it is not clear whether aircraft were overflying the site. The report does note 'apparent lack of aircraft activity' during the period, which would indicate that aircraft were following the noise routes north and south of Melbourne. We conclude therefore that there was a westerly wind and aircraft were not overflying the site i.e. measurements were done in the quiet conditions.

Noise Measurement – Period 2. 14.06 on Friday 23rd May 2014 to 01.55 on Monday 26th May 2014

This period spans a bank holiday weekend (26th May 2014 was Spring Bank Holiday). With a bank holiday on Monday, the need for express delivery is reduced and overnight cargo flights effectively cease from Thursday, so we expect cargo aircraft would not fly on Friday night and at the weekend. This measurement period would be much less noisy than when cargo aircraft operated normally.

Again, the report gives no indication of wind direction, so again it is not clear whether or not aircraft were overflying the site. There is comment that no audible noise was heard from an event at Donington Park (to the east of the site), suggesting westerly winds. So it may be that aircraft were not overflying the site.

There is reference to ‘limited night time movements’ giving the impression that there are few night movements: **this is quite incorrect**. We point out above that, on average, the frequency of night movements is similar to daytime movements. The total number of night flights at EMA exceeds any other UK airport. The only reason the consultants noted ‘limited night movements’ is that they chose to observe a bank holiday weekend when cargo aircraft were not operating.

One interpretation of the choice of a bank holiday weekend for noise measures is that the consultants do not understand the noise impact of EMA traffic distribution. Alternatively the bank holiday weekend may have been chosen to avoid measuring the noise created by the large freight aircraft in the evening and night periods.

Noise Assessment

On the basis of two periods of measurement, one in westerly winds when aircraft do not overfly the site, the other at a bank holiday when freight aircraft do not operate, the consultants conclude that traffic flow on Station Road is the dominant source of noise at this site and have based their noise assessment on this conclusion.

We contend that this is not a credible conclusion. In easterly wind conditions on Monday to Friday, by far the most intrusive noise at this site is from approaching aircraft, particularly in the evening and night as heavy freight aircraft approach EMA. This situation is very well known to local residents and none would accept this report as a valid assessment.

The noisy condition includes numerous very large freight aircraft directly over the site. We anticipate that, when noise is measured in the noisy periods, noise levels across the whole site will considerably exceed those already measured. We would expect that site noise will exceed BS8233 day, night and garden recommended noise levels.

We include below the World Health Organisation (WHO) recommended noise limits. We expect that the noisy condition at this site may exceed WHO levels for ‘outdoor living areas’, ‘outside bedrooms’, and the maximum levels for outside bedrooms.

We would argue that any noise assessment can only be credible and valid if it is based on the noisiest situation at the site. This assessment, based on quieter periods and cannot be accepted as a true reflection of site noise levels. We therefore strongly recommend that the applicant be required to take noise measurements in the noisy conditions (easterly wind conditions in the normal working week Monday-Friday, avoiding bank holidays).

World Health Organisation Recommended Maximum Noise Levels

Specific environment	Critical health effect(s)	LAeq [dB]	Time base [hours]	LAm _{ax} , fast [dB]
Outdoor living area	Serious annoyance, daytime and evening	55	16	-
	Moderate annoyance, daytime and evening	50	16	-
Dwelling, indoors	Speech intelligibility and moderate annoyance, daytime and evening Sleep disturbance, night-time	35	16	45
Inside bedrooms		30	8	
Outside bedrooms	Sleep disturbance, window open (outdoor values)	45	8	60
School class rooms and pre-schools, indoors	Speech intelligibility, disturbance of information extraction, message communication	35	during class	-
Pre-school bedrooms, indoors	Sleep disturbance	30	sleeping-time	45
School, playground outdoor	Annoyance (external source)	55	during play	-
Hospital, ward rooms, indoors	Sleep disturbance, night-time	30	8	40
	Sleep disturbance, daytime and evenings	30	16	-
Hospitals, treatment rooms, indoors	Interference with rest and recovery	#1		
Industrial, commercial shopping and traffic areas, indoors and outdoors	Hearing impairment	70	24	110
Ceremonies, festivals and entertainment events	Hearing impairment (patrons:<5 times/year)	100	4	110
Public addresses, indoors and outdoors	Hearing impairment	85	1	110

Specific environment	Critical health effect(s)	LAeq [dB]	Time base [hours]	LAmx, fast [dB]
Music through headphones/ earphones	Hearing impairment (free-field value)	85 #4	1	110
Impulse sounds from toys, fireworks and firearms	Hearing impairment (adults)	-	-	140 #2
	Hearing impairment (children)	-	-	120 #2
Outdoors in parkland and conservation areas	Disruption of tranquillity	#3		

#1: as low as possible;

#2: peak sound pressure (not LAmx, fast), measured 100 mm from the ear;

#3: existing quiet outdoor areas should be preserved and the ratio of intruding noise to natural background sound should be kept low;

#4: under headphones, adapted to free-field values

Source - Guidelines for Community Noise, Edited by Birgitta Berglund , Thomas Lindvall, Dietrich H Schwela, World Health Organization, Geneva, 1999. Available at:<http://www.who.int/docstore/peh/noise/guidelines2.html>